**Full Faith and Credit Clause-Article IV, Section 1 Essay by Erin O’Hara**

As James Madison noted, the Full Faith and Credit Clause of the Constitution promotes “harmony and proper intercourse among the states.” It chiefly unites court systems of different states insofar as it ensures that courts of one state honor the judgments of courts in another state. The Supreme Court has applied this clause in three distinct ways: determining when one state’s court may take jurisdiction over claims involving another state, determining which state law applies in a case with multi-state disputes, and recognizing and enforcing judgments from another state’s court.

First, the Court has used the Full Faith and Credit Clause to require state courts to hear claims that arise under sister-state laws. A state court cannot categorically refuse to hear claims that arise under another state’s laws, but it may be exempt from this requirement if, for instance, it does not recognize the equivalent claim based on local law. Additionally, a state cannot limit a litigant’s options for a hearing to its local courts alone.

Second, the Supreme Court guidelines regarding the application of a state’s laws for a multi-state dispute have varied. At first, the laws of the state where the dispute occurred were applied, even if the trial took place in a different state, but if the state had an interest in the case, the state’s court could apply its own laws. Today, state courts have a degree of discretion regarding which state’s law to apply.

Third, the Supreme Court has ruled that states must recognize and enforce (to the same extent that the deciding state would) the decisions of other states’ courts. There are a few exceptions to this rule relating to personal jurisdiction, deeds of land, and penal claims.

In recent years, questions have emerged about the application of the Full Faith and Credit Clause to issues of marriage, divorce, and child-rearing. For instance, state courts change child support and custody judgments made in another state if these alterations are “in the best interests of the child.” The Defense of Marriage Act (1996) allowed states not to recognize same-sex marriages from other states.

**Reflection Questions:**

1. Why does James Madison cite the Full Faith and Credit Clause as one that promotes “harmony and proper intercourse among the states”?
2. When would one state court not be required to enforce judgments made by another state court?

**Privileges and Immunities Clause — Article IV, Section 2, Clause 1 Essay by David F. Forte and Ronald Rotunda**

The Privileges and Immunities Clause ensures that states do not discriminate against citizens of other states in judicial processes and economic activities. Because the concept of privileges and immunities referred to the long tradition of rights afforded to the colonists as Englishmen, the Framers approved the clause without controversy.

The concept of privileges and immunities meant that colonists were part of a unified political community, could travel freely and establish permanent residencies in any other colonies, received certain legal rights and were guaranteed access to courts, and were able to sell their goods in other colonies.

Before independence, the Declaration and Resolves of 1774 outlined several natural rights of the colonists, including the right to “life, liberty, and property.” The delegates to the First Continental Congress distinguished between natural rights and privileges and immunities, describing the latter as positive rights granted by royal charter or provincial law. 274

The Articles of Confederation contained a clause protecting the privileges and immunities of citizenship. Although revised several times, the final version of the clause created common citizenship, guaranteed freedom of travel, and provided equal protection of the laws by protecting freedom to conduct business.

Based on James Madison’s objections, the Privileges and Immunities Clause in the Constitution was simplified. It created common citizenship, but Congress still retained power to determine who could become citizens. It also prevented states from discriminating against citizens of other states in judicial processes and economic activities.

Many states distinguished between privileges and immunities on one hand and natural rights on the other. Privileges and immunities remained positive rights. A state could repeal them, and an individual had no right to claim them for himself. Natural rights are not granted by the state; they are inherent in the nature of man, and the state only secures them. The Supreme Court held in Corfield v. Coryell (1823) that privileges and immunities included natural rights. However, in the SlaughterHouse Cases (1873), the Court rejected this idea.

**Reflection Questions:**

1. What distinguished natural rights from immunities and privileges?
2. Are natural rights granted by the states? Please explain

**New States Clause — Article IV, Section 3, Clause 1 Essay by David F. Forte**

The New States Clause outlines the process by which new states enter the Union. Congress admits new states. New states could be created within an existing state, or multiple existing states could form a single new state, with the consent of both Congress and relevant state legislatures.

The Committee of Detail at the Constitutional Convention originally proposed that new states be admitted on the same terms as existing states. Gouverneur Morris opposed considering new states equal to the original ones. Although James Madison supported the equality of states, the explicit equality requirement was removed from the language by a vote of 7 to 2. The Constitution was silent on the equality of states.

Using its discretion, Congress declared that all new states would be on equal footing with the original ones. Congress also decided to admit states formed from territory acquired by the Union after the Constitution went into effect. Gouverneur Morris and the New England Federalists opposed this practice, arguing that Congress could admit states only from the territory held by the Union prior to the Constitution. Later practice rendered Morris’s and the Federalists’ argument moot. The Supreme Court has upheld Congress’s practice of admitting new states on equal footing to the original.

**Reflection Questions:**

1. How are new states added to the Union?
2. Why did Gouverneur Morris and the New England Federalists opposed to the creation of states from territories acquired after the ratification of the Constitution?