

Panel III: The First Amendment and Incorporation

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The Antislavery Reading of Article IV

Article IV of the U.S. Constitution contains a Privileges and Immunities Clause, a predecessor to the Fourteenth Amendment's Privileges or Immunities Clause. Article IV required states to treat citizens of other states equally with their own. Several scholars have claimed that antislavery theorists advanced an unorthodox reading of the clause according to which it nationalized the rights of citizens, and point to this unorthodox reading as evidence that the Fourteenth Amendment was intended to "incorporate" the Bill of Rights against the states or guarantee other fundamental rights. This Article seeks to demonstrate that although some antislavery thinkers held unorthodox views of Article IV, the best understanding of the unorthodox view is that it would have merely extended the anti-discrimination work of the clause to discrimination among a state's own citizens.