

**CONTROLLING CONSTITUTIONAL PRINCIPLES, PURPOSES & PRACTICES**  
*A U. S. Supreme Court Decision for the Foundational Pillars of a Nation*  
*Butchers' Union Co. v. Crescent City Co., 111 U.S. 746 (1884)*



“No legislature can bargain away the public health or the public morals.  
The people themselves cannot do it, much less their servants.”

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As in our intercourse with our fellow men, certain principles of morality are assumed to exist without which society would be impossible, **so certain inherent rights lie at the foundation of all action and upon a recognition of them alone can free institutions be maintained.** These inherent rights have never been more happily expressed than in the declaration of independence, that new evangel of liberty to the people: "We hold these truths to be self-evident" -- **that is, so plain that their truth is recognized upon their mere statement** -- "that all men are

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endowed" -- not by edicts of emperors, or decrees of Parliament, or acts of Congress, but "by their Creator with certain inalienable rights" -- that is, rights which cannot be bartered away, or given away, or taken away, except in punishment of crime -- **"and that among these are life, liberty, and the pursuit of happiness, and to secure these"** -- not grant them, but secure them -- "governments are instituted among men, deriving their just powers from the consent of the governed."

Thoughts, Words and Actions for Plaintiff's Quintessential Rights of the First Amendment:  
*Truths that manifest Life, Liberty & Pursuit of Happiness pursuant to the Free Exercise Clause*

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Among these inalienable rights, as proclaimed in that great document, is the right of men to pursue their happiness, by which is meant the right to pursue any lawful business or vocation, in any manner not inconsistent with the equal rights of others, which may increase their prosperity or develop their faculties, so as to give to them their highest enjoyment.

The common business and callings of life, the ordinary trades and pursuits, which are innocuous in themselves, and have been followed in all communities from time immemorial, must therefore be free in this country to all alike upon the same conditions. The right to pursue them, without let or hindrance, except that which is applied to all persons of the same age, sex, and condition, is a distinguishing privilege of citizens of the United States, **and an essential element of that freedom which they claim as their birthright.**

***It has been well said that***

***"the property which every man has in his own labor, as it is the original foundation of all other property, so it is the most sacred and inviolable.*** The patrimony of the poor man lies in the strength and dexterity of his own hands, and to hinder his employing this strength and dexterity in what manner he thinks proper, without injury to his neighbor, **is a plain violation of this most sacred property.** It is a manifest encroachment upon the just liberty both of the workman and of those who might be disposed to employ him. As it hinders the one from working at what he thinks proper, so it hinders the others from employing whom they think proper." Smith, Wealth of Nations, Bk. I, c. 10.

I cannot believe that what is termed in the declaration of independence a God-given and an inalienable right can be thus ruthlessly taken from the citizen, or that there can be any abridgment of that right except by **regulations alike affecting all persons of the same age, sex, and condition.** It cannot be that a state may limit to a specified number of its people the right to practice law, the right to practice medicine, the right to preach the gospel, the right to till the soil, or to pursue particular business or trades, and thus parcel out to different parties the various vocations and callings of life. The first section of the Fourteenth Amendment was, among other things, designed to prevent all discriminating legislation for the benefit of some to the disparagement of others, and when rightly enforced as other prohibitions upon the state, not by legislation of a penal nature, but through the courts, no one will complain.

The Constitution and laws of the United States were as much then as now the supreme law of the land, which all officers of the state governments were then, as now, bound to obey.

MR. JUSTICE BRADLEY (with whom agree HARLAN and WOODS, JJ.), concurring.

They established and declared one of the inalienable rights of freemen which our ancestors brought with them to this country. ***The right to follow any of the common occupations of life is an inalienable right, it was formulated as such under the phrase "pursuit of happiness" in the declaration of independence, which commenced with the fundamental proposition that***

"all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness."

This right is a large ingredient in the civil liberty of the citizen. To deny it to all but a few favored individuals by investing the latter with a monopoly is to invade one of the fundamental privileges of the citizen, contrary not only to common right, but, as I think, to the express words of the Constitution. It is what no legislature has a right to do, and no contract to that end can be binding on subsequent legislatures.

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***I hold that the liberty of pursuit -- the right to follow any of the ordinary callings of life -- is one of the privileges of a citizen of the United States.*** It was held by a majority of the court in the former decision of the *Slaughterhouse Cases*, 16 Wall. 36, 83 U. S. 57, that the "privileges and immunities of citizens of the United States," mentioned and referred to in the Fourteenth Amendment, are only those privileges and immunities which were created by the Constitution of the United States, and grew out of it, or out of laws passed in pursuance of it. I then held, and still hold, that the phrase has a broader meaning; that it includes those fundamental privileges and immunities which belong essentially to the citizens of every free government, among which Mr. Justice Washington enumerates the right of protection; the right to pursue and obtain happiness and safety; the right to pass through and reside in any state for purposes of trade, agriculture, professional pursuits, or otherwise; to claim the benefit of the writ of habeas corpus; to institute and maintain actions of any kind in the courts of the state, and to take, hold, and dispose of property, either real or personal. *Corfield v. Corryell*, 4 Wash. C.C. 381. These rights are different from the concrete rights which a man may have to a specific chattel or a piece of land, or to the performance by another of a particular contract, or to

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damages for a particular wrong, all which may be invaded by individuals; they are the capacity, power, or privilege of having and enjoying those concrete rights, and of maintaining them in the courts, which capacity, power, or privilege can only be invaded by the state. ***These primordial and fundamental rights are "the privileges and immunities of citizens" which are referred to in the fourth article of the Constitution and in the Fourteenth Amendment to it.*** In the former, it is declared that "the citizens of each state shall be entitled to all privileges and immunities of citizens in the several states" -- that is, in the other states. It was this declaration which Justice Washington was expounding when he defined what was meant by "privileges and immunities of citizens." The Fourteenth Amendment goes further, and declares that "no state shall abridge the privileges and immunities of citizens of the United States;" which includes the citizens of the state itself, as well as the citizens of other states. *Emphasis added*

