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SWIFT V. TYSON AND THE CONSTRUCTION OF STATE STATUTES

So much has been written for the law reviews about the doctrine of *Swift v. Tyson*¹ that it has become a part of the etiquette of the business to explain oneself before adding to the overgrown literature of the subject.² It is now nearly a century since this nationalistic³ doctrine was written into our case law. There has been some vacillation and even more confusion in its exposition but in the large it has steadily become more deeply entrenched and more widely applied in the teeth of the persistent and highly crit-

¹ 16 Pet. 1, 10 L. Ed. 865 (1842).

² Notice the first paragraph in Rand, *Swift v. Tyson versus Gelpcke v. Dubuque* (1895) 8 HARV. L. REV. 328.

³ See Waterman, *The Nationalism of Swift v. Tyson* (1933) 11 N. C. L. REV. 125.