Weigh Anchor!

Enforce the Citizenship Clause

BY HOWARD SUTHERLAND

One simple reform would end a powerful incentive luring would-be illegal aliens from around the world to the United States: adjust the currently tortured interpretation of the right to citizenship expressed in the Fourteenth Amendment. Absurdly, current federal policy is to confer American citizenship automatically on any child (with very narrow exceptions, none applicable to illegal aliens) born within the United States. The legal status of the parents is deemed irrelevant. We must accept that a baby born to foreign parents five minutes after they crept over the border illegally is just as American as a baby whose parents are both Americans and U.S. citizens and whose ancestors have been here 350 years.

This new "American" is not the end of the story, either. The U.S.-born child becomes an anchor in American soil that will permit his parents and minor siblings to remain and, later, his grandparents, aunts, uncles, in-laws and all of their children to immigrate legally, not to mention any friends and acquaintances from home who may follow them illegally. All of their children born here will also be considered American citizens. Neither the Census Bureau nor the INS can say how many aliens have availed themselves of this gift already. We can only be sure that many millions more will also, unless Americans end it.

This perversion of American citizenship, commonly called "birthright citizenship," is the result of the federal government and judiciary's willful misinterpretation of the Citizenship Clause of the Fourteenth Amendment to the U.S. Constitution.[1] In truth, the Citizenship Clause confers nothing so broad. The plain language of the Fourteenth Amendment does not grant automatic birthright citizenship. A review of the Senate debate before the Fourteenth Amendment's ratification makes clear that the Citizenship Clause's proponents were careful to preclude any automatic grant of citizenship based only on birth within the territory of the United States.

Some legal theorists, along with those who favor unrestricted immigration, argue that only another amendment to the Constitution would be constitutionally adequate to end automatic birthright citizenship. That is wrong. All we need do is read (and enforce) the Citizenship Clause as written. Legislation to enforce the limits inherent in the Citizenship Clause is well within the Congress' constitutional power. As the Fourteenth Amendment itself explicitly states: "The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article."[2]

The Citizenship Clause of the Fourteenth Amendment

The first sentence of the Fourteenth Amendment says:

> All persons born or naturalized in the United States, *and subject to the jurisdiction thereof,* are citizens of the United States and of the State wherein they reside. [emphasis added]

To hold that the Citizenship Clause confers birthright citizenship on anyone born in the United States is to ignore the phrase "and subject to the jurisdiction thereof": a selective misreading of plain English. No argument rooted in the Constitution can support automatic birthright citizenship. The only question is how broadly to read the jurisdiction phrase in the Citizenship Clause. Logic, assisted by the Senate floor debate, answers this. The U.S. Supreme Court has since clouded the picture with its relatively few rulings on the Citizenship Clause, but despite what we are often encouraged to believe by some justices and law professors, the Constitution does not mean only what the Supreme Court says it does. Even so, the Court has never held that the Citizenship Clause automatically confers U.S. citizenship on *all* children born within the territory of the United States.

***Howard Sutherland** is an attorney in New York and a contribuor to* VDARE.COM. *Reprinted with permission: http://www.vdare.com/sutherland/weigh_anchor.htm*

The Ratification Debate

The Fourteenth Amendment, ratified on July 9, 1868, is the second of the three Reconstruction amendments to the Constitution ratified in the years immediately following Union victory in the War Between the States. A primary concern of the amendment's proponents was the extension of civil rights to recently freed slaves. Senators feared that state legislatures would assert that, not having been born U.S. citizens, emancipation did not make freedmen citizens of their states (hence of the United States; state citizenship was a prerequisite to U.S. citizenship). To forestall any denial of citizenship to freed blacks and to overturn the Dred Scott decision[3] explicitly, the Fourteenth Amendment's proponents introduced the Citizenship Clause.

Nevertheless, they were well aware that a blanket grant of birthright citizenship was not consistent with American tradition and could lead to a demographic transformation in the event of high immigration. To prevent it, the senators included the jurisdiction phrase. The floor debate[4] reveals their concerns and their views of how far birthright citizenship should extend.

Introducing the proposed amendment, Senator Jacob Merritt Howard of Michigan stated that he believed the Citizenship Clause was "simply declaratory of what I regard as the law of the land already, that every person born within the limits of the United States, and subject to their jurisdiction, is by virtue of natural and national law, a citizen of the United States." He went on to say specifically whom he considered that natural and national law excluded:

> This will not, of course, include persons born in the United States who are foreigners, aliens, who belong to the families of ambassadors or foreign ministers accredited to the Government of the United States, but will include every other class of persons.

The only, tenuous, way to read Senator Howard's statement to support birthright citizenship for the children of illegal aliens or, indeed, most legally resident aliens is to assume that the only foreigners or aliens he meant are those belonging to the families of diplomats. The simpler reading is to construe the sentence as what it is: a list of excluded categories.

Senator James Doolittle of Wisconsin was troubled by Howard's language, not because he wanted to find a way to include any foreigners or aliens, but because he *wanted to ensure that American Indians remained excluded*. Howard (and, ultimately, the Senate) thought Doolittle's proposed clarification unnecessary. As Howard pointed out:

> Indians born within the limits of the United States, and who maintain their tribal relations, are not, in the sense of this amendment, born subject to the jurisdiction of the United States. They are regarded, and always have been in our legislation and jurisprudence, as being quasi-foreign nations.

It is, or should be, clear that language denying citizenship to people born within the United States on the theory that they were subject to 'quasi-foreign nations' must exclude the children of people who have broken this country's laws in entering it, and whose whole allegiance is to entirely foreign nations.

Senator Edgar Cowan of Pennsylvania spoke at length about the limits of citizenship and the rights of states (and, by extension, the federal government: senators in 1866 still acknowledged that the powers of the federal government were those expressly delegated to it by the states in the Constitution) to control who may enter from abroad:

> [A foreigner in the United States] has a right to the protection of the laws; but he is not a citizen in the ordinary acceptance of the word.
>
> It is perfectly clear that the mere fact that a man is born in the country has not heretofore entitled him to the right to exercise political power. … I have supposed … that it was essential to the existence of society itself, and particularly essential to the existence of a free State, that it should have the power, not only of declaring who should exercise political power within its boundaries, but that if it were overrun by another and a different race, it would have the right to absolutely expel them.
>
> I do not know that there is any danger to many of the States in this Union; but is it proposed that the people of California are to remain quiescent while they are overrun by a flood of immigration…? Are they to be immigrated out of house and home by Chinese? I

> should think not. It is not supposed that the people of California, in a broad and general sense, have any higher rights than the people of China; but they are in possession of the Country of California, and if another people, of different religion, of different manners, of different traditions, different tastes and sympathies are to come there and have the free right to locate there and settle among them, and if they have an opportunity of pouring in such an immigration as in a short time will double or treble the population of California, I ask, are the people of California powerless to protect themselves? … As I understand the rights of the States under the Constitution at present, California has the right, if she deems it proper, to forbid the entrance into her territory of any person she choose who is not a citizen of some one of the United States.

His terms might seem impolitic today. But what Senator Cowan would think of the current interpretation of the Citizenship Clause is clear. Cowan took pains to point out that he was not denying the human or civil rights of foreigners generally; his concern was with their relation to the United States:

> I wish to be understood that I consider those people to have rights just the same as we have, but not rights in connection with our Government. If I desire the exercise of my rights, I ought to go to my own people, people of the same beliefs and traditions, and not thrust myself in upon a society of other men entirely different in all those respects from myself. I would not claim that right.

The notion that an accident of geographic location at birth could confer U.S. citizenship on someone whose family had no prior connection to the United States, no attachment to America other than presence on its soil at that moment, was utterly alien to Senator Cowan and his colleagues. What Senator Cowan would think of the Mexican government's recent demands of the United States with respect to the millions of its citizens now in the United States illegally (blanket amnesty plus guest-worker programs; Spanish-language schooling at American taxpayer expense; full access to all American social welfare programs, again at American taxpayer expense) is equally clear.

Senator John Conness of California, an Irish immigrant himself, was less worried than Cowan about the disruptive potential of birthright citizenship. Speaking of the Chinese of his day, he said:

> [I]t is only in exceptional cases that they have children in our State; and therefore the alarming aspect of this provision to California, or any other land to which the Chinese may come as immigrants, is simply a fiction in the brains of persons who deprecate it, and that alone.

Cowan seems to have been a better prophet than Conness. Could Conness have foreseen the Mexican (and Chinese) population explosion of the Twentieth Century and the attendant demographic pressure on California and the rest of the country, he probably would not have been so sanguine.

The Senate expanded its debate of "subject to the jurisdiction thereof" in the context of American Indians. Most Indians were people present (and bearing children) within the United States who had never been considered citizens, because generally they were not considered subject to the jurisdiction of any state; Indians who had become assimilated (and become taxpayers) in a state were considered citizens. Senator Doolittle emphasized the weighty consequences of granting citizenship:

> [C]itizenship, if conferred, carries with it, as a matter of course, the rights, the responsibilities, the duties, the immunities, the privileges of citizens, for that is the very purpose of this constitutional amendment to extend. … [I]n the Constitution as [the Founding Fathers] adopted it they excluded the Indians who are not taxed; not enumerate them, indeed, as part of the population upon which they based representation and taxation; much less did they make them citizens of the United States.

Doolittle was especially concerned to ensure that the citizenship clause not be read to confer citizenship on Indians, even those on reservations receiving food from the War Department and, in his view, to that limited extent subject to the jurisdiction of the United States. In response, Senator Lyman Trumbull of Illinois, the Chairman of the Judiciary Committee, dismissed any notion that the Citizenship Clause could be read that way:

> [I]t is very clear to me that there is nothing whatever in the suggestions of the Senator from Wisconsin. The provision is, that "all persons born in the United States, and subject to the jurisdiction thereof, are citizens." That means "subject to the *complete* jurisdiction thereof." [emphasis added] Now does the Senator from Wisconsin pretend to

> say that the Navajo Indians are subject to the complete jurisdiction of the United States? By no means. We make treaties with them. … It cannot be said of any Indian who owes allegiance, partial allegiance if you please, to some other Government [by which Trumbull means his tribe] that he is "subject to the jurisdiction of the United States." … *It is only those persons who come completely within our jurisdiction, who are subject to our laws*, that we think of making citizens; and there can be no objection to the proposition that such persons should be citizens. [emphasis in original]

Senator Reverdy Johnson of Maryland (the lone Democrat among the Senators quoted; all the others were Republicans in this Reconstruction Senate) was less certain than his colleagues that the proposed amendment clearly excluded Indians not taxed, but wished to clarify how American citizenship was created. He accepted that birthright citizenship for the children of U.S. citizens was natural and the appropriate norm, but worried that the proposed amendment might be read too broadly:

> Now, all this amendment provides is, that all persons born in the United States *and not subject to some foreign power* – for that, no doubt, is the meaning of the committee who have brought the matter before us – shall be considered as citizens of the United States. … I am, however, by no means prepared to say, as I think I have intimated before, that being born within the United States, independent of any new constitutional provision on the subject, creates the relation of citizen to the United States. [emphasis in original]

Johnson went on to quote from the Civil Rights Act of 1866[5] , which had just passed. He considered that its wording better expressed what the Citizenship Clause was meant to achieve: "That all persons born in the United States *and not subject to any foreign Power,* excluding Indians not taxed, are hereby declared to be citizens." [emphasis added] None of his colleagues, not least Senator Howard, the Citizenship Clause's proponent, disagreed.

The Citizenship Clause in the Supreme Court

The Citizenship Clause has been surprisingly little litigated. Supreme Court opinions construing it have almost all addressed the question of when and why a U.S. citizen, whether native or naturalized, may be stripped of his citizenship. The Court has held that U.S. citizenship, once conferred, cannot easily be taken away. The current interpretation (in which Justice Hugo Black, one of the Warren Court's more creative jurists, read meaning into the Fourteenth Amendment that is not there) is that U.S. citizenship can never be involuntarily relinquished.[6] More importantly, just as the Court maintains that the government cannot unilaterally strip a U.S. citizen of his citizenship, an individual cannot unilaterally decide to be a U.S. citizen. Citizenship is not self-selected: it is granted on the basis of qualification for it. Throughout the Supreme Court's citizenship jurisprudence runs a thread of reciprocity between the individual and the nation, subject to the principle that no one can become a citizen of a nation without its consent.

No Automatic Birthright Citizenship: The Case of American Indians

In 1884, the Supreme Court ruled on the applicability of the Citizenship Clause to an American Indian.[7] John Elk was an Indian born within the territory that some years later became the state of Nebraska. At statehood in 1867, Nebraska limited the franchise to adult male citizens who had been *bona fide* resident in Nebraska for all of the previous six months prior to an election. In 1880, Elk sought to vote in a Nebraska election, claiming U.S. citizenship on the basis of the Citizenship Clause. At the time he had been living in Omaha for more than a year and had renounced his tribal affiliation. When his case finally reached it, the Supreme Court rejected Elk's claim to citizenship.

In its opinion the Court applied the "subject to the jurisdiction thereof" phrase, interpreting it in light of its ratifiers' Senate debate:

> The evident meaning of [the jurisdiction phrase] is not merely subject in some respect or degree to the jurisdiction of the United States, but completely subject to their political jurisdiction, and owing them direct and immediate allegiance. Indians born within the territorial limits of the United States… although in a geographical sense born in the United States, are no more 'born in the United States and subject to the jurisdiction thereof' within the meaning of the [Citizenship Clause], than the children of subjects of any foreign government born within the domain of that government…

In Elk, the Supreme Court was true to the meaning of the Citizenship Clause, both as its drafters wrote it

and, from the Senate debate, as they evidently meant it. The opinion makes clear that the status of the parents of a child born within the territory of the United States determines whether or not the child is eligible for U.S. citizenship. To qualify the child for citizenship, his parents must be "completely subject" to the jurisdiction of the United States and must owe "direct and immediate" allegiance to the United States.

The obvious corollary to being completely subject to the jurisdiction of one nation and owing it direct and immediate allegiance is that one can have no conflicting obligations to another. In Elk, the competing sovereign to which John Elk was held to have disqualifying allegiance was his tribe, even though he had renounced membership in it. The legality of Elk's presence in the United States was not an issue; his right to be in Nebraska was not disputed.

In the case of illegal aliens, the *illegality* of their presence in the United States is not in dispute. They remain entirely subject to the jurisdiction of their home countries, the only nations to which they owe direct and immediate allegiance. To reason that, through breaking the laws of the United States by entering and remaining illegally, an illegal alien has somehow transferred his allegiance from his home country to the United States is absurd. One does not pledge allegiance to any republic by entering it uninvited and flouting its laws through his continued presence. It is more absurd still to allege that, by breaking into its territory, the illegal alien subjects himself willingly to the jurisdiction of the nation he has invaded. The only jurisdiction to which he is willingly subject, if any, is that of his own country, which does not renounce its claim on his allegiance or its right to exercise jurisdiction over him merely because he has chosen to be a squatter somewhere else. The Mexican government's activism on behalf of all Mexicans in the United States (even those with U.S. citizenship) is the example of greatest concern to Americans, but not the only one.

Proponents of amnesties for illegal aliens may argue that, by analogy to the former denial of citizenship to "Indians not taxed," illegal aliens effectively subject themselves to U.S. jurisdiction by paying sales tax when they buy things in the United States. Even ignoring their massive evasions of federal and state income tax, the argument is a red herring. The only meaningful subjection to the jurisdiction of the United States that an illegal alien can make is his prompt surrender to the INS. The Supreme Court in Elk denied birthright citizenship to a man with far stronger links to America than any illegal alien; a man who was resident in compliance with American law. The Court did so on the basis of a common-sense reading and application of the Citizenship Clause, one that gives due weight to its jurisdiction phrase and reflects the understanding of its drafters. There is no latitude in that correct interpretation for any grant of U.S. citizenship to U.S.-born children of illegal aliens. While the immediate issue in Elk became moot in 1924 with the Congress' grant of U.S. citizenship to all American Indians in the United States, the Court never overruled Elk and has never repudiated Elk's analysis of the Citizenship Clause.

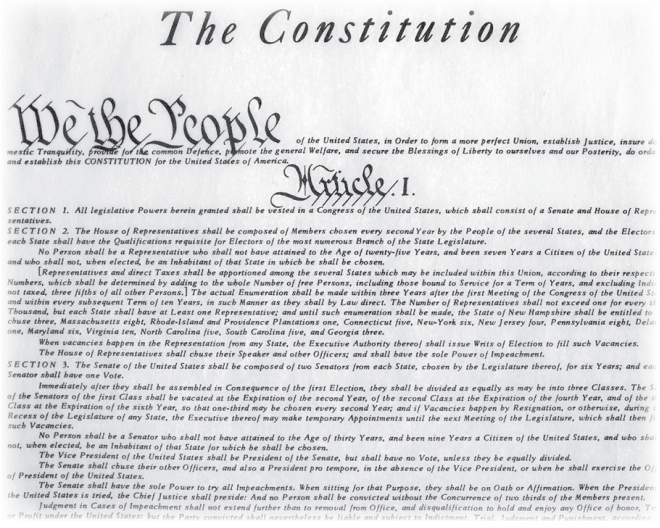
Birthright Citizenship for Legal Immigrants' Children? The Supreme Court Overreaches

It is clear that the Citizenship Clause does not justify granting citizenship to illegal aliens' U.S.-born children. Does it justify granting citizenship to the U.S.-born children of legally resident aliens? In a ruling that ignored (while not denying) the Court's Elk analysis, a later Supreme Court mistakenly held that it does. In 1898, the Supreme Court granted citizenship to Wong Kim Ark.[8] Wong Kim Ark, born in San Francisco, was the son of Chinese nationals who were not eligible for U.S. citizenship and who ultimately returned to China. In 1895, Wong Kim Ark returned to San Francisco from a voyage to China and was denied entry on the ground that he was not a U.S. citizen. He sued, and his case made its way eventually to the Supreme Court.

A majority of the Court held that Wong Kim Ark was a U.S. citizen through the operation of the Citizenship Clause. The majority opinion is a lengthy disquisition on the English Common Law understanding of citizenship and how it is acquired, and how those common law antecedents made their way into the laws of the United States. The Court preferred the older English view of *jus soli* birthright citizenship, which had allowed the Crown to assert jurisdiction over anyone born in England, no matter who his parents were. Paradoxically, an ancient doctrine designed to extend the power of the English crown over as many subjects as possible was invoked to grant U.S. citizenship to a Chinese subject returning to California. The majority gave short shrift to the intent of the Citizenship Clause's framers. They ignored the fact that, by putting the Citizenship Clause, qualified by the jurisdiction phrase, into the Constitution, the country had deliberately superseded the common law view. They preferred to read the jurisdiction phrase as applying to little more than the children of accredited diplomats.

The dissenting minority paid more attention to the Senate ratification debate, and also noted the language of the contemporaneous Civil Rights Act of 1866,

which used the phrase "and not subject to any foreign power" in lieu of the Citizenship Clause's jurisdiction phrase. While we might criticize the 36th Congress for poor drafting, it does not make sense to say that the drafters of the essentially simultaneously enacted Civil Rights Act of 1866 and Fourteenth Amendment meant to create two different standards for U.S. citizenship. The dissenters also noted, correctly, that there is nothing in the wording of the Citizenship Clause or the Civil Rights Act of 1866 that limits the application of the "subject to the jurisdiction thereof/not subject to any foreign power" language only to diplomats or other accredited representatives of foreign governments. Similarly, there is no warrant in the Citizenship Clause for automatic extension of birthright citizenship to the children of aliens legally resident in the United States. They are subject to another jurisdiction: that of their parents' (and their own) native countries.



The Constitution

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common Defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this CONSTITUTION for the United States of America.

Article. I.

SECTION 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SECTION 2. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty-five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

[Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons.] The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

SECTION 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one-third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

The Senate shall chuse their other Officers, and also a President pro tempore, in the absence of the Vice President, or when he shall exercise the Office of President of the United States.

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

In *Wong Kim Ark*, the Supreme Court treated the jurisdiction phrase of the Citizenship Clause as almost a nullity. The Court was not in fact ruling on illegal aliens, which is today's larger problem, but *Wong Kim Ark's* over-expansive reading of the Citizenship Clause is substantially to blame for the current mistaken policy of extending birthright citizenship to illegal aliens' children.

Citizenship for Whom?

Applying the Citizenship Clause

There has been no test case yet of the applicability of the Citizenship Clause to illegal aliens. In the current political climate it is very unlikely that there will be one. It is hard to imagine the INS under this Bush Administration (or any Democratic administration) suing to deprive a Mexican child of U.S. citizenship.

The issue is properly one for the Congress, pursuant to its powers under Article I of the Constitution and the explicit grant of Congressional enforcement authority in Section 5 of the Fourteenth Amendment.

Not all Congressmen are ducking the issue. A number of bills to conform the application of the Citizenship Clause to the way it is written have been introduced in the House of Representatives. The most recent is H.R. 190, introduced by Rep. Robert Stump of Arizona on January 3, 2001. H.R. 190 would deny citizenship to the U.S.-born child of "a mother who is neither a citizen or national of the United States nor admitted to the United States as a lawful permanent resident." H.R. 190 would consider such a child as born subject to the jurisdiction of his parents' country and a citizen of that country and not of the United States.

But H.R. 190 would be only one step in the right direction. The Citizenship Clause gives the Congress more power than that to prevent the unintended gift of U.S. citizenship to foreign nationals' children born in the United States. At a time of largely uncontrolled immigration into the United States, with social tensions growing and the fragmentation of the national polity ever more likely, the Congress must, within the constraints set by the Citizenship Clause, take control of that most basic element of American civic life: who is and who is not entitled to be a citizen of the United States at birth.

Clearly, under the Citizenship Clause the Congress has no power to deny citizenship to a U.S.-born child of American parents, who is in no way subject to any foreign power. But the truth is, that is all the Citizenship Clause says.

Reasonable legislation to enforce the Citizenship Clause would provide that:

- the child of U.S. citizens, wherever born, is a U.S. citizen;
- the child of a U.S. citizen and a foreign national, wherever born, should be treated as a U.S. citizen until age 18, at which age he must choose between U.S. citizenship and his foreign parent's citizenship; no dual citizenship allowed;
- the U.S.-born child of legally resident aliens is not a U.S. citizen. If his parents, with whom he then resides and whose dependent he is, should become naturalized U.S. citizens before his 18th birthday (and he has no criminal record) he may naturalize with them. At 18, he must choose between

the U.S. and his ancestral country; no dual citizenship allowed; and

- the U.S.-born child of illegal aliens is not a U.S. citizen, any more than he would be if born in his home country.

These restrictions take into account the concerns that the Citizenship Clause's drafters had about not devaluing American citizenship and the conflicts inherent in dual allegiance. The denial of birthright citizenship to the U.S.-born children of foreign nationals, whether legally resident or illegal aliens, is neither a denial of their right to U.S. citizenship (they have none) nor does it render them stateless. They are citizens of their own countries, their parents' home countries, and entitled to all the privileges and immunities of that citizenship, whatever they may be. These restrictions are constitutional, and would be a foundation on which an intelligent immigration and naturalization policy, one that is in the interest of Americans, and the United States, could be built.

The national character of America is already being erodey forced multiculturalism. Diversity-driven racial and ethnic preferences are increasing social tensions among Americans. The United States cannot absorb mass immigration in these (or any) circumstances without that character being destroyed. The American prosperity that many immigrants and illegal aliens presumably want will be destroyed with it.

One of the first, and most important, steps to Americans' reclaiming control of their country's fate is to make sure that only Americans enjoy the automatic privilege of U.S. citizenship at birth. ■

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Endnotes

1. U.S. CONST. amend XIV, § 1.
2. U.S. CONST. amend XIV, § 5.
3. http://www.vdare.com/asp/printPage.asp?url=http://www.vdare.com/sutherland/weigh_anchor.htm - _ednref3 Dred Scott v. Sandford, 19 How. 577 (1857).
4. http://www.vdare.com/asp/printPage.asp?url=http://www.vdare.com/sutherland/weigh_anchor.htm - _ednref4 CONG. GLOBE, 39th Cong., 1st Sess. 2890 *et seq*. (1866). All Senate debate quotes are from the Congressional Globe (precursor of the Congressional Record) for May 30, 1866.
5. Ch. 31, 14 Stat. 27.(now 42 U.S.C. Sec. Sec. 1981-82).
6. Afroyim v. Rusk, 387 U.S. 253 (1967).
7. Elk v. Wilkins, 112 U.S. 94 (1884).
8. United States v. Wong Kim Ark, 169 U.S. 649 (1898).