

Not a Birthright

No citizenship for the children of non-citizens

by William F. Chip

The Republican Party's platform for the 1996 presidential campaign urges legislation or a constitutional amendment that would withhold automatic U.S. citizenship from the American-born children of illegal aliens. This plank has drawn the attention of those on the lookout for fresh signs of Republican mean-spiritedness. In an August 8 editorial, for example, *The [Washington] Post* variously characterizes the citizenship plank as "destructive," "vindictive," and a "new low" in "immigrant bashing."

Much of the negative commentary on the citizenship plank is laced with misinformation. The headline of *The Post's* editorial, "Children Without a Country," erroneously implies that withholding birthright citizenship would turn the children of illegal aliens into stateless vagabonds. Yet, Mexico and nearly all other countries routinely grant

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citizenship to the foreign-born offspring of their citizens. The issue for most American-born offspring of noncitizens is not statelessness but whether they are entitled to U.S. citizenship in addition to the citizenship of their parents.

Equally misunderstood are attempts to cast the citizenship plank as an assault on the 14th Amendment to the Constitution. The August 8 editorial erred when asserting that "every individual" born within our borders since adoption of the 14th Amendment has enjoyed birthright citizenship. The 14th Amendment confers birthright citizenship only on persons born, "subject to the jurisdiction of the United States."

The phrase "subject to the jurisdiction" was authored by Senator Lyman Trumbull of Illinois, who also had written the first postbellum legislation enfranchising emancipated slaves. When asked to explain these words during congressional debate on the 14th Amendment, Trumbull answered that the "jurisdiction" he had in mind was a United States claim to the American-born person's "complete" allegiance. The senator argued that enfranchisement of the otherwise stateless former slaves was a moral imperative,

but that it would be wrong to presume or impose a duty of allegiance on the children of American Indians and foreign diplomats, since the children would owe competing allegiance to an Indian tribe or a foreign nation notwithstanding their birth in the United States.

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That the 14th Amendment did not extend birthright citizenship to the children of tribal Indians was confirmed by the Supreme Court in *Elk v. Wilkins* (1884). After *Wilkins* there remained the question of how any child of noncitizen immigrants could be born a United States citizen in light of the parents' country's potential claim of allegiance. That question was answered in *United States v. Wong Kim Ark*, in which the court held that the 14th Amendment conferred birthright citizenship on the children of noncitizen parents who had taken up lawful and permanent residence in the United States. Although a century has passed since *Wong Kim Ark*, the court's holding has

Language and Airline Safety

[In an article about airline safety and the training of mechanics, Business Week had this to say about the use of the English language...]

There seem to be abuses at every stage. The most basic requirement for U.S. mechanics is the ability to read, write and understand English. But a continuing National Transportation Safety Board (NTSB) investigation of the fatal Valujet crash revealed that several of the Spanish-speaking mechanics who worked at SabreTech, a repair facility in Miami that did maintenance work for Valujet, allegedly lacked sufficient English. This would mean that they could not understand the repair manuals for fixing planes, which are published only in English for most aircraft in the U.S.

"It's a matter we intend to bring up with the FAA," says Bernard Loeb, director of the office of aviation safety at the NTSB. Valujet referred all questions in the matter to Sabretech. The company's lawyer Kenneth P. Quinn answers that he is "not aware of any of our licensed A&P mechanics who can't read, write and understand English."

How is it possible for someone with scanty knowledge of English to get an A&P license in the U.S., if FAA rules forbid it? "Easy," says an FAA flight safety inspector in South Florida, where the SabreTech facility is located. "You bullshit your way through the FAA's 'rigid' licensing procedures. It happens all the time." Furthermore, he says that the inspectors were discouraged by FAA management from reporting problems they encountered with testing procedures, a view that was corroborated by six other FAA inspectors. The FAA says the English requirements for A&P certification are very specific, but it would not comment on SabreTech because of the current investigation into the Valujet crash.

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a baby. However, a blanket grant of citizenship without regard to the parents' immigration status loses some of its humanitarian luster when one considers, as Trumbull did, that a birthright citizen is subject to U.S. income taxes and military conscription for the rest of his life.

The impulse to confer automatic citizenship on the American-born children of illegal aliens, like the impulse to allow their foreign-born children to enroll in United States public schools, springs from the faulty premise that illegal alien families are here to stay and that all of us will therefore suffer if the children grow up uneducated and without political rights. However, illegal aliens love their families as much as we love ours; if they could not enroll their kids in public schools, the overwhelming majority would not set up United States households in the first place.

The truth is that most illegal aliens are not innate lawbreakers, but they will not respect laws that we ourselves do not respect. If we establish clear rules and show that we will not merely pretend to enforce them, the problem of illegal immigration will start to solve itself. □

never been extended to the children of noncitizens whose U.S. residence is limited or prohibited by law.

There is no plausible basis for presuming that the offspring of illegal aliens, tourists, exchange students and other temporary visitors in the United States have or ought to have a greater allegiance to the United States than to their parents' countries. Most illegal aliens come here for temporary economic advantage, not to alter their political identity. When

thousands of them marched to protest California's Proposition 187, they carried the flag of Mexico, not the Stars and Stripes.

When Senator Trumbull and his colleagues regarded U.S. citizenship as a mixed bag of privileges and duties, modern civil libertarians are inclined to focus on the privileges. When only privileges are considered, withholding birthright citizenship from an American-born child is readily portrayed as the political equivalent of taking candy from