



Written by [Steve Byas](#) on November 7, 2014

Essential Immigration Reform

With all the talk of President Barack Obama granting “amnesty” to millions of illegal aliens through an executive order, and the desire of others to “secure the borders,” very little is said about what would be the single most effective step Congress could take in the field of immigration reform.

That step would be to return to the original intent of the 14th Amendment as to what constitutes a “natural born citizen.”



Without that step, all efforts to control the nation’s borders are ultimately doomed to failure.

Presently, the United States recognizes that any person born inside the borders of the United States is a “natural born citizen.” Congress, which is given plenary power over this area by the Constitution, can change this unfortunate situation at any time. It is a myth that the authors of the 14th Amendment wished to have all persons born on U.S. soil be automatic citizens. The Constitution says no such thing.

This misinterpretation of the 14th Amendment allows individuals to enter the country illegally and have a child, and that child is then declared a U.S. citizen.

A child born to an illegal alien on American soil becomes an “anchor baby”: the parents’ ticket to legal status. These babies, considered citizens, are then entitled under U.S. law to a cornucopia of welfare benefits. So, while the law may bar illegal aliens from most government assistance (drawn from the pocketbooks of American taxpayers), the U.S.-born *children* of illegals have full legal status to draw all such benefits.

A better understanding of the 14th Amendment requires an examination of its clear wording, the historical context in which it was drafted, and the intent of its Framers, as expressed during the legislative debate and discussion on the amendment in 1866. It is also helpful to examine how the amendment was interpreted in the first few years after its adoption, before modern liberalism warped that definition, as it has so much of the Constitution.

The amendment states, “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.” The phrase “and subject to the jurisdiction thereof” has, of course, been simply ignored by those promoting the concept of open borders. Clearly, the Framers of the 14th Amendment intended that only children born in the country “subject to the jurisdiction thereof” — that is, subject to the jurisdiction of the United States — are considered natural-born citizens. This would, by the clear wording of the amendment, not include the children of illegal aliens (or legal aliens, such as tourists or students), because they are under the jurisdiction of foreign governments.

In the War Between the States, there was no clear definition of citizenship apart from citizenship in one of the United States. In the aftermath of the war, and the passage of the 13th Amendment, abolishing the institution of slavery, many former slaves were in something of a legal limbo. Many northern members of Congress expressed concern over the passage by Southern state governments of various laws designed to keep the ex-slaves in a position as close to slavery as they could (the Black Codes).



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This led Congress to pass the Civil Rights Act of 1866, which would require states to recognize the basic civil rights of these former slaves. To make sure that the law was accepted as constitutional in light of *Dred Scott v. Sanford* (the 1857 Supreme Court ruling that slaves were not citizens), Congress decided to pass the 14th Amendment, which basically placed into the Constitution the terms of the Civil Rights Act.

The purpose was clearly to make citizens of former slaves, not the children of foreigners who happened to be inside the borders of the United States.

Senator Jacob Merrit Howard of Michigan, an author of the 14th Amendment, specifically stated during the discussions over the effects of the amendment, *"This will not, of course, include persons in the United States who are foreigners."*

Senator James Doolittle of Wisconsin expressed concern as to how the amendment would affect the status of American Indians. Howard assured Doolittle that the 14th Amendment did not make American Indians citizens of the United States. His response is instructive as to the real meaning of the words "under the jurisdiction of the United States," because the tribal members born in America were certainly born within the borders of the United States. Indians born within the limits of the United States, and who maintained their tribal relations, were not in the sense of the amendment, born subject to the jurisdiction of the United States. Howard responded, "They are regarded, and always have been in our legislation and jurisprudence, as being quasi-foreign nations."

While many American Indians did become U.S. citizens prior to the 20th century, it was not until an act of Congress under President Coolidge that all remaining non-citizen Native Americans became actual citizens.

It strains credulity to believe that American Indians, whose ancestors had lived within the borders of the United States for centuries before the first English settlements and the founding of the Republic, were not considered citizens under the terms of the amendment, but that children of illegal aliens are considered natural-born citizens! If American Indians were considered foreigners and not citizens at birth under the 14th Amendment, it is reasonable to conclude that the children of illegal aliens are likewise excluded.

For years, the clear intent of the 14th Amendment (to exclude certain individuals born inside the borders of the United States from citizenship) was little questioned. In 1872, the California Supreme Court demonstrated that it clearly understood the obvious intent of the 14th Amendment in its ruling in *Van Valkenburg v. Brown*. The court held that the purpose of the amendment was to confer the status of citizenship upon persons "domiciled within the limits of the United States who could not be brought within the operation of the naturalization laws because native born, and whose birth, though native, had at the same time left them without the status of citizenship. Such persons were not white persons, but in the main were of African blood, who had been held in slavery in this country, or having themselves never been held in slavery, were the native-born descendants of slaves."



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