



Written by [Selwyn Duke](#) on November 2, 2018

## Russian Invasion? Putin's Anchor Babies and the 14th Amendment

It's something that may guarantee Russian interference in our elections — when the foreigners-in-spirit are old enough to vote, anyway. At issue is “birth tourism,” a phenomenon whereby pregnant Russian women (among others) take an American vacation for the purposes of birthing “anchor babies,” happily taking advantage of a misapplication of the 14th Amendment.



It's an interesting twist in the current anchor-baby debate. While Barack Obama once mocked Mitt Romney's Russia warnings by [saying](#), “The 1980s are now calling to ask for their foreign policy back,” the Left now considers Moscow the premier international super-villain. Given this, is it time to end the following scam? As NBC News wrote [earlier this year](#):

In Moscow, it's a status symbol to have a Miami-born baby, and social media is full of Russian women boasting of their little *americantsy*.

“It's really common,” said Ekaterina Kuznetsova, 29. “When I was taking the plane to come here, it was not only me. It was four or five women flying here.”

Ekaterina was one of dozens of Russian birth tourists NBC News spoke to over the past four months about a round-trip journey that costs tens of thousands of dollars and takes them away from home for weeks or months.

Why do they come?

“American passport is a big plus for the baby. Why not?” Olesia Reshetova, 31, told NBC News.

“And the doctors, the level of education,” Kuznetsova added.

If you're feeling like a sucker, it won't help knowing that “Australia rescinded birthright citizenship in 2007, as did New Zealand in 2006, Ireland in 2005, France in 1993, and the United Kingdom in 1983,” [informs](#) Cairco.org. Aside from Canada, this leaves the United States as the only industrialized nation still wearing a “Kick me” sign.

A standard dictating that anyone born here — even to an illegal alien or a vacationer gaming the system — is automatically a citizen is patently absurd. But is it a flaw inadvertently written into the Constitution?

The 14th Amendment was adopted in 1868 — three years after the War Between the States — for the purposes of ensuring that freed slaves would have full citizenship rights.



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In fact, as attorney and commentator Ann Coulter [points out](#), “The amendment didn’t even make Indians citizens. Why? Because it was about freed slaves. Sixteen years after the 14th Amendment was ratified, the Supreme Court held that an American Indian, John Elk, was not a citizen, despite having been born here.”

Congress had to pass a special law to provide Indians citizenship, which it did in 1924.

So where does the anchor-baby notion come from? Coulter explains:

Whether the children born to legal immigrants are citizens is controversial enough. But at least there’s a Supreme Court decision claiming that they are — *U.S. v. Wong Kim Ark*. That’s “birthright citizenship.”

It’s something else entirely to claim that an illegal alien, subject to deportation, can drop a baby and suddenly claim to be the parent of a “citizen.”

This crackpot notion was concocted by liberal zealot Justice William Brennan and slipped into a footnote as dicta in a 1982 case. “Dicta” means it was not the ruling of the court, just a random aside, with zero legal significance.

Left-wing activists seized on Brennan’s aside and browbeat everyone into believing that anchor babies are part of our great constitutional heritage, emerging straight from the pen of James Madison.

No Supreme Court has ever held that children born to illegal aliens are citizens. No Congress has deliberated and decided to grant that right. It’s a made-up right, grounded only in the smoke and mirrors around Justice Brennan’s 1982 footnote.

This lends perspective. Critics have scoffed at President Trump’s claim that he could end the anchor-baby standard via executive order. But of course he can. Since the standard was created by executive action, it can be ended by executive action.

Yet the critics still argue. At issue is the 14th Amendment’s text stating that 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).

The point of contention is the meaning of the italicized portion. What exactly does “jurisdiction” mean here?

Many commentators have recently been citing the explanation of the Citizenship Clause’s author, Senator Jacob M. Howard, who stated that “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.” This, in turn, sparks another disagreement: Did Howard mean “persons...who are foreigners, aliens” or “who belong to the families of ambassadors or foreign ministers”? Or are “foreigners” and “aliens” appositives, where what follows is just a clarification of whom is being referenced?

Anchor-baby proponents claim the latter. Yet if this is so, why the redundancy? It goes without saying that the children of ambassadors and foreign ministers are “aliens,” “foreigners.” This lends credence to the contention that Howard was providing a list of those not enjoying birthright citizenship.

Moreover, Hans von Spakovsky [explains](#) at the *Daily Signal* that as “John Eastman, former dean of the Chapman School of Law, has said, many do not seem to understand ‘the distinction between partial,



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territorial jurisdiction, which subjects all who are present within the territory of a sovereign to the jurisdiction of that sovereign's laws, and complete political jurisdiction, which requires allegiance to the sovereign as well.'"

In fact, this distinction was made when the 14th Amendment was considered. Responding to the claim that Indians were under the U.S.'s jurisdiction, Senator Howard and fellow senator Lyman Trumbull pointed out that the United States did not have *full jurisdiction* over the Indians, who make treaties with the United States and govern themselves.

So if this was true of Indians, who were members of "nations" but resided here legally, how can the United States have full jurisdiction over those here illegally who are also members of foreign nations that govern themselves and make treaties with the United States?



To cement the point, imagine a young Russian man resides in our country illegally and is called in for military service (Russia has a mandatory draft). He's subject to punishment just like any other Russian if he doesn't respond. This is because Russia has jurisdiction over him — he owes allegiance to *its* sovereign, not ours.

Of course, it goes without saying that the 14th Amendment's framers weren't contemplating illegal aliens when crafting their amendment. After all, since there was no immigration law at the time, illegals *didn't even exist*.

A man who once passionately railed against the anchor-baby standard said that "no sane country" would allow it (video below). That man was former leader of the Senate Democrats Harry Reid (D-Nev.).

If this is true, can it be said that today's Democrats are the Party of Insanity?

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