



Written by [Steve Byas](#) on May 31, 2023

Trump Calls for End to Birthright Citizenship

Former President Donald Trump announced Tuesday that if he wins the White House again in 2024, he will end birthright citizenship via an executive order. On his first day in office. The announcement was met with the expected denunciations from the progressive Left and their media allies, all of whom see birthright citizenship — the idea that any person born on the soil of the United States, even if that person's mother is in the country illegally herself, is a U.S. citizen at birth — as helping their electoral chances in future elections.



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Some “experts” argue that the 14th Amendment created birthright citizenship, and thus cannot be altered by a mere executive order, mostly by ignoring both the clear wording of the 14th Amendment and what the authors of the amendment said was their purpose in seeking its adoption.

The Trump campaign explained that an executive order “will explain the clear meaning of the 14th Amendment,” which is that children of foreigners born in the United States are not subject to the jurisdiction of the United States, as defined in the Constitution, and are therefore not citizens by mere birth on U.S. soil. During his term of office from 2017-2021, Trump even had a draft executive order to that effect, although he never issued it. Hopefully, if Trump is elected president again in 2024, he would go through with it this time. He argued that the United States has “become one of the few countries in the world to extend citizenship to the children of illegal aliens even if both parents are not citizens nor even legally present in the United States.”

Historically, citizenship in various nations and empires was restricted to *jus sanguinis* (citizenship by blood), rather than *jus soli* (citizenship by birth on the soil of the country). In the Roman Empire, for example, citizenship at birth was only granted to persons whose parents were Roman citizens, or were given citizenship through a legal process later on. Readers of the New Testament might recall that the Apostle Paul was a Roman citizen because his father was, while another man said he became a citizen by purchasing citizenship at a high price.

Mark Krikorian, executive director of the Center for Immigration Studies, is [highly supportive](#) of the idea of an executive order. “This will set up the court fight — the order will be enjoined, case will eventually reach SCOTUS [the U.S. Supreme Court], which then will finally have to rule on the meaning of ‘subject to the jurisdiction.’”

While critics of Trump's announcement bloviate that he is wrong, the truth is that he is correct — the 14th Amendment was not written to give citizenship to every baby born on U.S. soil, but rather only to those babies born to parents who were under the jurisdiction of the United States. Critics conveniently



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ignore or try to explain away the conditional phrase “under the jurisdiction” of the United States, some making the absurd argument that by merely being present in the country, people have placed themselves under the jurisdiction of the United States, even if they are just tourists.

The reference of the “jurisdiction” is to the person’s *political allegiance*. A foreigner who happens to be in the United States remains under the political allegiance of his nation of origin.

Perhaps if we examine the *purpose* of the 14th Amendment, the meaning will be even clearer. Once the Civil War was over, and the 13th Amendment, abolishing slavery, had been adopted, the status of about five million former slaves was in limbo. Congress passed the 1866 Civil Rights Act, in an attempt to ensure that these former slaves would enjoy full rights of citizenship in the country. But concerned that the Democratic Party might regain control of the U.S. government from the Republicans and repeal the act, the Republican-controlled Congress decided that they needed to put much of the provisions of the Civil Rights Act into the Constitution itself with an amendment.

There is some debate as to whether the 14th Amendment was ever properly ratified, but for the sake of argument here, let us say that it was. The *purpose* of the 14th Amendment was to make citizens of five million people all at once. Congress decided the way to do that was to say anyone born on the soil of the United States — under its jurisdiction — was a citizen. This would, the authors explained, exclude foreigners who were not under our jurisdiction, including citizens of the various Indian tribes. Those individuals were not under the political jurisdiction of the United States, but rather of their tribe.

Some have argued that this simply meant that these Native American Indians were living on reservations and therefore, were not having to follow the laws outside their reservation. This is nonsensical, because there were American Indians who did become U.S. citizens through a legal process in the ensuing years. In the early 20th century, *all* Native Americans not already U.S. citizens (most already were) became U.S. citizens by an act of Congress at the urging of President Calvin Coolidge (who had some Indian blood himself). In 1884, in *Elk v. Wilkins*, citizenship was denied to an American Indian because he “owed immediate allegiance” to his tribe — not to the United States. Although he had taken up residence outside his reservation, he was still under the jurisdiction of his tribe, and would have to go through the legal process to become a naturalized citizen.

This raises another interesting point. These “experts” claim that any child born on U.S. soil is a U.S. citizen, even if his parents were here illegally, but American Indians whose families had lived on U.S. soil for generations, were not.

Senator Lyman Trumbull of Illinois was one of the proponents of the 14th Amendment, and he explained what “subject to the jurisdiction” meant — it meant not owing allegiance to any other nation. In the 1872 Slaughterhouse Cases, the U.S. Supreme Court ruled that this phrase was meant to exclude “children of ministers, consuls, and *citizens or subjects of foreign States born within the United States.*” (Emphasis added.)

Others point to the 1898 Supreme Court decision of *United States v. Wong Kim Ark*, arguing that a Chinese child born on American soil was a citizen at birth. But that decision involved the case of a child born of legal and permanent residents of the United States. Certainly, a person who is legally residing in the United States on a permanent basis has placed himself or herself under the jurisdiction of the United States, and has been so recognized by the legal regulations of the U.S.

Because of this history and proper understanding of the purpose of the 14th Amendment, Donald Trump — or any other president of the United States — would be following the law and the Constitution if he



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issued an executive order telling U.S. agencies to not recognize the citizenship of a person born on U.S. soil to parents who are not in the country legally. That is the purpose of an executive order — to tell persons in the executive branch of the federal government to follow the law and the Constitution. He would not be making new law, but simply following the law.

Then, if an individual desires to challenge that interpretation of the law, he or she is welcome to go to court. Until then, it should be recognized that the president of the United States takes an oath to uphold the Constitution of the United States, not some interpretation of it by some left-wing, unelected, self-proclaimed expert.



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