Are YOU a Natural-Born Citizen of the U.S.A.?

To answer this question, one that must be answered before running for the office of **President** of the U.S.A. or to become a U.S. **citizen**, simply at the time and place of your birth, there are currently three key sources most legal authorities direct our attention to (in no real logical order) for the answer.

One would be **any Act passed by Congress (1)**, such as the **United States Naturalization Law of March 26, 1790**, which clearly defined and/or outlined what the term U.S. "**natural-born citizen**" or "**citizen**" meant legally, as it applied to U.S. law. This first Act, and others after it, also laid out other ways in which people may become **citizens** of the U.S.A., after meeting certain tests or requirements, usually to become U.S. "**naturalized citizens**". The Act of 1790 started the ball rolling but has been superseded (see below) several times as well.

Another is a key **Supreme Court of the U.S** (SCOTUS) **opinion (2)** which was handed down by the majority of the SCOTUS on March 28, 1898, in the case of **169 U.S. 649**, **United States v. Wong Kim Ark (No. 18), Argued: March 5, [to] 8, 1897, Decided: March 28, 1898.** Back then, apparently the SCOTUS was faster at drafting and handing down well informed decisions.

These two sources, the law or **Congressional Acts** and SCOTUS **opinions** (interpretations of law), may have their differences. But, for the most part, as a result of these two sources, now days, people very often argued that just being born within the territorial boundaries of the U.S.A. is enough proof that you are a U.S. **citizen** (such as a person born inside the U.S.A. even when your parents are both non-U.S.A. **citizens**). Others may also argue that the current citizenship of one or both of your parents is the primary key to becoming a U.S. **natural-born citizen** and that where you are born has little or nothing to do with it, so far as the U.S. government should be concerned. Perhaps both perspectives are true?

But, one might also take into account a time-line of U.S.A. history and one other **very influential document** that factor into this topic.

The **U.S. Constitution (3)**, once ratified by nine of the first thirteen original states and then certified – which technically took effect on September 13, 1788, and the key parts within, and changes later made, such as the various amendments or the **Bill of Rights** – also comes into focus when reviewing this topic.

To find out which line of thinking is most correct one must review each of these **three key sources** in detail to establish the correct position to take… and the answer to most questions concerning U.S. citizenship.

WHERE TO BEGIN

Let's begin with the **U.S. Constitution (3)**, which is what our founders began with, and the order of events surrounding it as covered at this link:

https://en.wikipedia.org/wiki/Timeline_of_drafting_and_ratification_of_the_United_States_Constitution

Article I, Section 8, which has been part of the **U.S. Constitution** from day one, states that:

> The **Congress** shall have Power … To establish an uniform Rule of Naturalization, …

Thus, it was expected that citizenship and "Naturalization", and how it is defined, from time to time, would be up to **Congress** and not necessarily fixed entirely within the **U.S. Constitution** itself; at least not unless **Congress** or the States were to amend the **U.S. Constitution** to establish otherwise. It did not give this Power to the **Supreme Court** or to any **President** or their administration either. However, **Congress**, through laws they pass, might grant one or the other of the preceding bodies the ability to make decisions covering the topic of citizenship, as long as they do not give up or cede their **Constitutional** Power in the process.

About 80 years after the **U.S. Constitution** took effect the **U.S. Constitution** was also amended. The **Fourteenth Amendment** of the **U.S. Constitution** was ratified and took effect on July 9, 1868. Section 1 of that amendment also applies to this review:

> Section 1. 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…

Another way to read this part of that amendment might be more like this:

> Section 1. All persons born [***in***] or **naturalized** ***in*** the United States, **and** subject to the **jurisdiction** thereof [, *as defined and established by law, which may, from time to time, change*], *are* ***citizens*** of the United States and of the State wherein they reside…

Note that this amendment made no effort to address legal or illegal resident status. It was focused on citizenship. And, as such, any other status would be something other than these two methods of obtaining citizenship; legal or otherwise. Thus, you have two methods, (A) **and** (B), of gaining citizenship; and you have any other method(s) (C) addressed under the above mentioned Congressional acts, laws, etc.; and you have non-citizenship (D), which is everything else. Keeping track of all of this was and still is quite complicated to be sure.

Note also the word "**and**" in the above clause. That word is a key to citizenship status, methods (A) **and** (B), as well. You not only have to be born or **naturalized** to be a **citizen** of the U.S.A., but you must also be "subject to the **jurisdiction** thereof" to be a **citizen** of the U.S.A.; at least so far as the **Fourteenth Amendment** applies. This fact is conveniently ignored by many in order to argue that ***place of birth*** is all that counts; thanks to the **Fourteenth Amendment**. They never consider option (C) which might be found in other legal statutes/laws/acts passed by **Congress** which factor into being "subject to the **jurisdiction**" of the U.S.A. And, thanks to **Congress**, that is where most of the complexity arises.

NOTE: This opinion paper helps shed more light on this position… Yale-Law-14th-Amerndment-2010.pdf

NEXT COMES ACTS PASSED BY CONGRESS

So, how did **Congressional Acts (1)** factor into the bigger picture on this topic?

The **First United States Congress**, consisting of the United States Senate and the United States House of Representatives, met from March 4, 1789, to March 4, 1791, during the first two years of George Washington's Presidency, first at Federal Hall in New York City and later at Congress Hall in Philadelphia. This **Congress** realized that they needed to either beef up the wording of the **U.S. Constitution**, concerning citizenship status, or they needed to better define terms and conditions addressed within the **U.S. Constitution**, concerning citizenship status. So they passed the first law (an Act of **Congress**) covering these topics. Later on several more **Congressional Acts** came about which altered the terms and conditions of citizenship each time. See the set of links for **Congressional Acts (1)** below for the exact wording of this Act and those which followed that changed the rules governing citizenship within the U.S.A.

The original **United States Naturalization Law of March 26, 1790** (which came long before the **Fourteenth Amendment** on July 9, 1868) provided the first rules to be followed by the United States in the granting of *national citizenship*. This law **limited naturalization** to persons who were free white persons of good character. It thus excluded native American Indians (most who, at the time, were often against U.S. or European rule and preferred their own "national" identity), indentured servants (who nearly all preferred their own national identity), slaves (most who also preferred their own national identity), free blacks (most who also preferred their own national identity) and later Asians (most who also preferred their own national identity); although free blacks were allowed citizenship at the state level in certain states. It also provided for citizenship for the children (**our posterity** as it is stated within the **Constitution**) of U.S. **citizens** born abroad, stating that such children "shall be considered as ***natural-born citizens***", the only U.S. statute ever to clearly apply or use the term. It specified that the right of citizenship did "not descend to persons whose fathers have never been resident in the United States." Just knowing who the mother was did not fully establish citizenship in every case. Knowing the father and where they lived also factored into the original scheme of things. In other words, the father was important also. A careful reading of this Act of **Congress** played a big factor in gaining citizenship as well as being considered as a ***natural-born citizen*** before running for the Office of **President** of the U.S.A. as well.

The **United States Naturalization Act of January 29, 1795** repealed and replaced the **Naturalization Act of 1790**. The 1795 Act differed from the 1790 Act by increasing the period of required residence from

two to five years in the United States, by introducing the Declaration of Intention requirement, or "first papers", which created a two-step naturalization process, and by omitting the term "**natural-born**." The Act specified that **naturalized** citizenship was reserved only for "free white person[s]." It also changed the requirement in the 1790 Act of "good character" to read "good moral character."

The **Naturalization Act of 1798**, passed by the **United States Congress** on June 18, 1798. It increased the period necessary for immigrants to become **naturalized citizens** in the United States from 5 to 14 years.

Although the law was passed under the guise of protecting national security, most historians conclude it was really intended to decrease the number of voters who disagreed with the Federalist political party. At the time, most immigrants supported Thomas Jefferson and the Democratic-Republicans, the political rivals of the Federalists. This act was repealed in 1802 by the Naturalization Law of 1802.

A number of changes were made to the previous naturalization law:

Act	Naturalization Act of 1790	Naturalization Act of 1795	Naturalization Act of 1798
Notice time	no notice required	3 years	5 years
Residence period	2 years	5 years	14 years

The "**Notice time**" refers to the period that immigrants had to wait after declaring their intent to become a **citizen**. The "**Residence period**" refers to the period they had to live in the United States before they could become a **citizen**. The **Naturalization Act of 1798** is considered one of the Alien and Sedition Acts, passed contemporaneously in 1798. Like the Naturalization Acts of 1790 and 1795, the 1798 act also restricted citizenship to "free white persons".

Also, the act distinguished between *native, **citizen**, denizen, or subject of any nation or state*. The act is the first to maintain records of immigration and residence, and provided certificates of residence for white immigrant aliens, for the purpose of establishing the date of arrival for subsequent qualification.

The **Naturalization Act of 1802** was passed by the **United States Congress** on April 14, 1802. The 1802 act replaced the **Naturalization Act of 1798**, which only modified some conditions set forth within the prior acts, and provided:

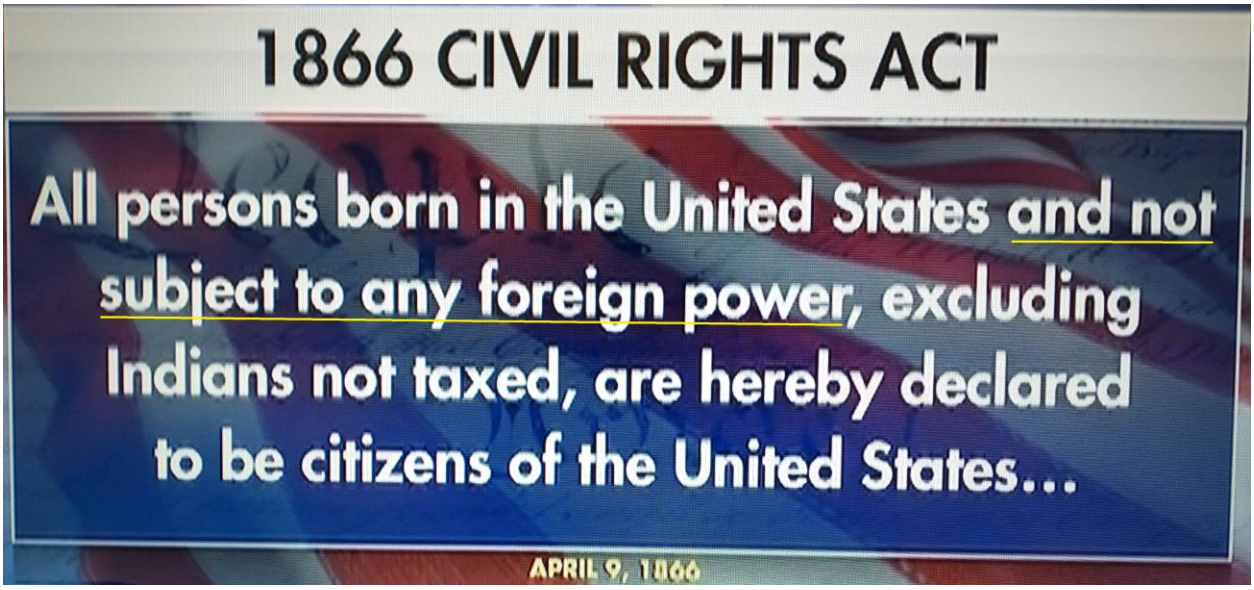
- The "free white" requirement remained in place.
- The alien had to declare, at least three years in advance, their intent to become a U.S. **citizen**.
- The previous 14-year residency requirement was reduced to 5 years.
- Resident children of **naturalized citizens** were to be considered **citizens**.
- Children born abroad of US **citizens** were to be considered **citizens**.
- Former British soldiers during the "late war" were barred unless the state legislature made an exception for them.

The 1802 Act further directed the clerk of the court to record the entry of all aliens into the United States. The clerk collected information including the applicant's name, birthplace, age, nation of allegiance, country of emigration, and place of intended settlement, and granted each applicant a certificate that could be exhibited to the court as evidence of time of arrival in the United States.

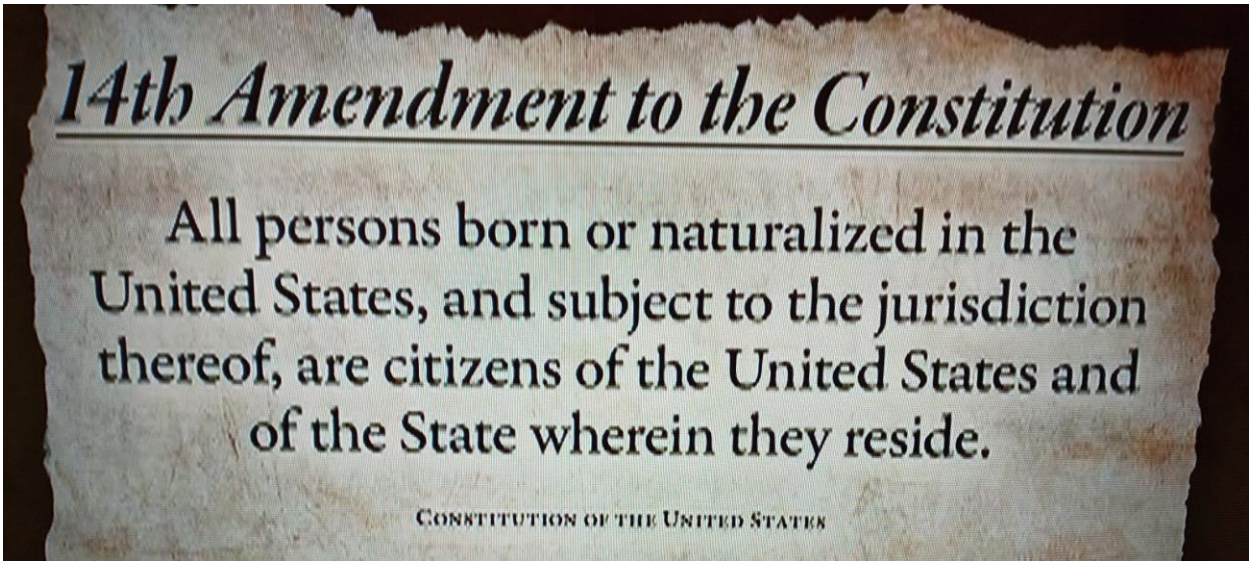
The act of 1802 was the last major piece of naturalization legislation during the 19th century. A number of minor revisions were introduced later, but these merely altered or clarified details of evidence and certification without changing the basic nature of the residential admission procedure. The most important of these revisions occurred in 1855, when citizenship was automatically granted to alien wives of U.S. **citizen** males, and in 1870, when the naturalization process was opened "to persons of African descent".

The **Civil Rights Act of 1866**, passed by the **United States Congress** on April 9, 1866, was the first United States federal law to define citizenship and affirm that all **citizens** are equally protected by the law. It was mainly intended to protect the civil rights of persons of African descent born in or brought to the U.S.A., in the wake of the American Civil War. This legislation was enacted by **Congress** in 1865 but

vetoed by **President** Andrew Johnson, a democrat. In April 1866 **Congress** again passed the bill to support the **Thirteenth Amendment**. Although Johnson again vetoed it, thanks to the fact the Republican Party held the majority in both houses and they were able to gain favor with some democrats, a two-thirds majority in each chamber overcame the veto and the bill therefore became law.



Notice the close similarity to the **Fourteenth Amendment**…

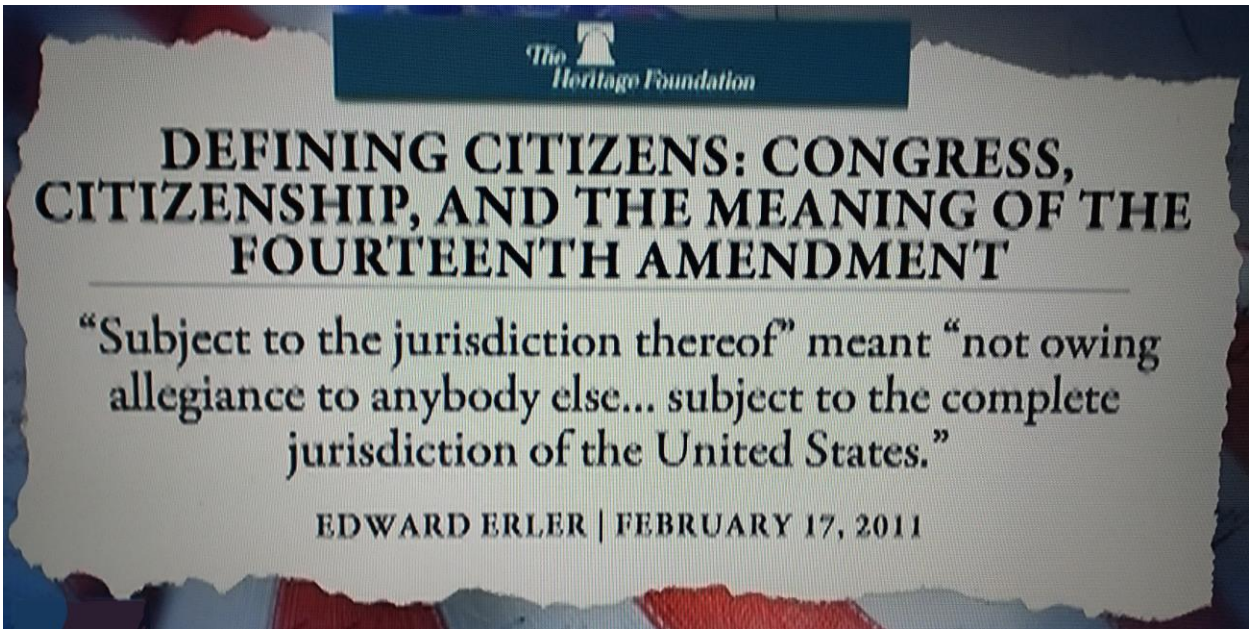


This ties in closely to the SCOTUS **opinion** below. Continue reading to see how.

THEN COMES THE KEY SCOTUS OPINION

Within the SCOTUS **opinion (2)**, issued on March 28, 1898, several statements stand out in particular which gives rise to what the term "**jurisdiction**" within the **Fourteenth Amendment** might refer, etc. The first of these was…

> Nor can it be doubted that it is the inherent right of every independent nation to determine for itself, and according to its own constitution and laws, what *classes* of persons shall be entitled to its citizenship.



While **Parts I** through **IV** of the SCOTUS **opinion** covers a lot of bases, it is **Part V** of the SCOTUS **opinion** that focuses on the most important aspects of the case…

> **V.** In the forefront both of the **Fourteenth Amendment** of the **Constitution** and of the **Civil Rights Act of 1866**, the fundamental principle of citizenship by birth within the dominion was reaffirmed in the most explicit and comprehensive terms.
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> The Civil Rights Act, passed at the first session of the Thirty-ninth **Congress**, began by enacting
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> > …that all persons born in the United States, and not subject to any foreign power [i.e. **jurisdiction**], excluding Indians not taxed [most who, at the time, were still often against U.S. or European rule and preferred their own "national" identity], are hereby declared to be **citizens** of the United States [thus grandfathered in], and such **citizens**, of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted [convicted criminals may lose some rights], shall have the same right, in every State and Territory in the United States, to make and enforce contracts, to sue, be parties and give evidence, to inherit, purchase, lease, sell, hold and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by white **citizens**, and shall be subject to like punishment, pains and penalties, and to none other, any law, statute, ordinance, regulation or custom to the contrary notwithstanding [as is true today, if you are a convicted criminal/felon some rights are no longer yours, such as freedom, the right to vote, own a gun, etc.].
>
> The same **Congress**, shortly afterwards, evidently thinking it unwise, and perhaps unsafe, to leave so important a declaration of rights to depend upon an ordinary act of legislation, which might be repealed by any subsequent **Congress**, framed the **Fourteenth Amendment** of the **Constitution**, and, on June 16, 1866, by joint resolution, proposed it to the legislatures of the several States, and on July 28, 1868, the Secretary of State issued a proclamation showing it to have been ratified by the legislatures of the requisite number of States.
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> The first section of the **Fourteenth Amendment** of the **Constitution** begins with the words,
>
> > 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.
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> As appears upon the face of the amendment, as well as from the history of the times, this was not intended to impose any new restrictions upon citizenship or to prevent any persons from becoming **citizens** by the fact of birth within the United States who would thereby have become **citizens** according to the law existing before its adoption. It is declaratory in form, and enabling

and extending in effect. Its main purpose doubtless was, as has been often recognized by this court, to establish the citizenship of free negroes, which had been denied in the opinion delivered by Chief Justice Taney in *Dred Scott v. Sandford,* (1857) …, and to put it beyond doubt that all blacks, as well as whites, born or **naturalized** within the **jurisdiction** of the United States are **citizens** of the United States. *The Slaughterhouse Cases* (1873), [the **opinion** continues] … But the opening words, "All persons born," are general, not to say universal, restricted only by place and **jurisdiction**, and not by color or race -- as was clearly recognized in all the opinions delivered in *The Slaughterhouse Cases,* above cited.

In those cases, the point adjudged was that a statute of Louisiana granting to a particular corporation the exclusive right for twenty-five years to have and maintain slaughterhouses within a certain district including the City of New Orleans, requiring all cattle intended for sale or slaughter in that district to be brought to the yards and slaughterhouses of the grantee, authorizing all butchers to slaughter their cattle there, and empowering the grantee to exact a reasonable fee for each animal slaughtered, was within the police powers of the State, and not in conflict with the **Thirteenth Amendment** of the **Constitution** as creating an involuntary servitude, nor with the **Fourteenth Amendment** as abridging the privileges or immunities of **citizens** of the United States, or as depriving persons of their liberty or property without due process of law, or as denying to them the equal protection of the laws.

Mr. Justice Miller, delivering the opinion of the majority of the court, after observing that the **Thirteenth**, **Fourteenth** and **Fifteenth Articles of Amendment** of the **Constitution** were all addressed to the grievances of the negro race, and were designed to remedy them, continued as follows:

> We do not say that no one else but the negro can share in this protection. Both the language and spirit of these Articles are to have their fair and just weight in any question of construction. Undoubtedly, while negro slavery alone was in the mind of the **Congress** which proposed the **Thirteenth Article**, it forbids any other kind of slavery, now or hereafter. If Mexican peonage or the Chinese coolie labor system shall develop slavery of the Mexican or Chinese race within our territory, this amendment may safely be trusted to make it void. And so if other rights are assailed by the States, which properly and necessarily fall within the protection of these Articles, that protection will apply, though the party interested may not be of African descent.

And, in treating of the first clause of the **Fourteenth Amendment**, he said:

> The distinction between citizenship of the United States and citizenship of a State is clearly recognized and established. Not only may a man be a **citizen** of the United States without being a **citizen** of a State, but an important element is necessary to convert the former into the latter. He must reside within the State to make him a **citizen** of it, but it is only necessary that he should be born or **naturalized** in the United States to be a **citizen** of the Union.

Mr. Justice Field, in a dissenting opinion, in which Chief Justice Chase and Justices Swayne and Bradley concurred, said of the same clause:

> It recognizes in express terms, if it does not create, **citizens** of the United States, *and it makes their citizenship dependent upon the place of their birth*, or the fact of their adoption, *and not upon the* ***Constitution*** *or laws of any State or the condition of their ancestry.*

Mr. Justice Bradley also said:

> The question is now settled by the **Fourteenth Amendment** itself, that citizenship of the United States is the primary citizenship in this country, and that state citizenship is secondary and derivative, depending upon citizenship of the United States and the **citizen**'s place of residence. The States have not now, if they ever had, any power to restrict their citizenship to any classes or persons.

And Mr. Justice Swayne added:

> The language employed is unqualified in its scope. There is no exception in its terms, and there can be properly none in their application. By the language "**citizens** of the United States" was meant all such **citizens**, and by "any person" was meant all persons within the **jurisdiction** of the State. No distinction is intimated on account of race or color. This court has no authority to interpolate a limitation that is neither expressed nor implied. Our duty is to execute the law, not to make it. The protection provided was not intended to be confined to those of any particular race or class, but to embrace equally all races, classes and conditions of men.

Mr. Justice Miller, indeed, while discussing the causes which led to the adoption of the **Fourteenth Amendment**, made this remark:

> The phrase, "subject to its **jurisdiction**" was intended to exclude from its operation children of ministers, consuls, and **citizens** or subjects of foreign States born within the United States. [A contradiction perhaps?]

This was wholly aside from the question in judgment and from the course of reasoning bearing upon that question. It was unsupported by any argument, or by any reference to authorities, and that it was not formulated with the same care and exactness as if the case before the court had called for an exact definition of the phrase is apparent from its classing foreign ministers and consuls together -- whereas it was then well settled law, as has since been recognized in a judgment of this court in which Mr. Justice Miller concurred, that consuls, as such, and unless expressly invested with a diplomatic character in addition to their ordinary powers, are not considered as entrusted with authority to represent their sovereign in his intercourse with foreign States or to vindicate his prerogatives, or entitled by the law of nations to the privileges and immunities of ambassadors or public ministers, but are subject to the **jurisdiction**, civil and criminal, of the courts of the country in which they reside. [A reverse contradiction perhaps?]

But then we have this escape clause from the same SCOTUS **opinion** …

In weighing a remark uttered under such circumstances, it is well to bear in mind the often quoted words of Chief Justice Marshall:

> It is a maxim not to be disregarded that general expressions in every opinion are to be taken in connection with the case in which those expressions are used. If they go beyond the case, they may be respected, but ought not to control the judgment in a subsequent suit when the very point is presented for decision. The reason of this maxim is obvious. The question actually before the court is investigated with care, and considered in its full extent. Other principles which may serve to illustrate it are considered in their relation to the case decided, but their possible bearing on all other cases is seldom completely investigated.

That neither Mr. Justice Miller nor any of the justices who took part in the decision of *The Slaughterhouse Cases* understood the court to be committed to the view that all children born in the United States of **citizens** or subjects of foreign States *were excluded* from the operation of the first sentence of the **Fourteenth Amendment** is manifest from a unanimous judgment of the Court, delivered but two years later, while all those judges but Chief Justice Chase were still on the bench, in which Chief Justice Waite said:

> "Allegiance and protection **are**, in this connection" (that is, in relation to citizenship),
>
> reciprocal obligations. The one is a compensation for the other: allegiance for protection, and protection for allegiance. … At common law, with the nomenclature of which the framers of the **Constitution** were familiar, it was never doubted that all children, born in a country of parents who were its **citizens**, became themselves, upon their birth, **citizens** also. These were natives, or **natural-born citizens**, as distinguished from aliens or foreigners. *Some authorities go further, and include as **citizens** children born within the **jurisdiction**, without reference to the citizenship of their parents*. As to this class, there have been doubts, but never as to the first. For the purposes of this case, it is not necessary to solve these doubts. *It is sufficient for everything we have now to consider*

> *that all children **born of citizen parents** [not two alien parents] within the **jurisdiction** are themselves **citizens**.*

Up to this point within the **opinion** of this case no commitment has been made, either way, directly concerning the person in question who was born within the boundaries of the U.S.A. as the offspring of two Chinese or foreign parents. The entire discussion has taken into account offspring of U.S. **citizen** parents, one or both, only. And it has touched upon one group of persons, born within the boundaries of the U.S.A., with both parents being U.S.A. **citizens**, being definitely considered or defined as **natural-born citizens**.

The SCOTUS **opinion** then continues in order to shed light on other factors as they relate to jurisdictional matters.

> The only adjudication that has been made by this court upon the meaning of the clause, "**and** subject to the **jurisdiction** thereof," in the leading provision of the **Fourteenth Amendment** is *Elk v. Wilkins,* … in which it was decided that an Indian born a member of one of the Indian tribes within the United States, which still existed and was recognized as an Indian tribe by the United States, who had voluntarily separated himself [traveled] from his tribe and taken up his residence among the white [other] **citizens** of a State but who did not appear to have been **naturalized** [as a **citizen** by law], or taxed [by law], or in any way recognized or treated as a **citizen** either by the United States or by the State, was not a **citizen** of the United States, as a "person born in the United States **and** subject to the **jurisdiction** thereof" within the meaning of the clause in question.
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> That decision was placed upon the grounds that the meaning of those words was
>
> > 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;
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> that, by the **Constitution**, as originally established, "Indians not taxed" were excluded from the persons according to whose numbers representatives in **Congress** and direct taxes were apportioned among the several States, and **Congress** was empowered to regulate commerce not only "with foreign nations" and among the several States, but "with the Indian tribes;" that the Indian tribes, being within the territorial limits of the United States, were not, strictly speaking, foreign States, but were alien nations, distinct political communities, the members of which owed immediate allegiance to their several tribes and were not part of the people of the United States; that the alien and dependent condition of the members of one of those tribes could not be put off at their own will without the action or assent of the United States, and that they were never deemed **citizens** except when **naturalized**, collectively or individually, under explicit provisions of a treaty, or of an act of **Congress**; and therefore that
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> > Indians born within the territorial limits of the United States, members of, and owing immediate allegiance to, one of the Indian tribes (an alien, though dependent, power), 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 first section of the **Fourteenth Amendment** than the children of subjects of any foreign government born within the domain of that government, or the children born within the United States of ambassadors or other public ministers of foreign nations.
>
> And it was observed that the language used in **defining** citizenship in the first section of the **Civil Rights Act of 1866**, by the very **Congress** which framed the **Fourteenth Amendment**, was "*all persons born in the United States, and not subject to any foreign power, excluding Indians not taxed*."

The SCOTUS **opinion** then continued by touching on a *clear and powerful* line of reasoning which had been presented in a prior case as well and which went far to explain the limits of **jurisdiction** and its meaning in cases of law.

> In the great case of *The Exchange* (1812), …, the grounds upon which foreign ministers are, and other aliens are not, exempt from the **jurisdiction** of this country *were set forth by Chief Justice*

Marshall in a *clear and powerful* train of reasoning, of which it will be sufficient, for our present purpose, to give little more than the outlines. …

The reasons for not allowing to other aliens [other than enemy forces, foreign ships of war, dignitaries, and/or armies passing through by permission], exemption "from the **jurisdiction** of the country in which they are found" were stated as follows:

> When private individuals of one nation spread themselves through another as business or caprice may direct, mingling indiscriminately with the inhabitants of that other, or when merchant vessels enter for the purposes of trade, it would be obviously inconvenient and dangerous to society, and would subject the laws to continual infraction and the government to degradation, **if** such individuals or merchants did not owe temporary and local allegiance, and were not amenable to the **jurisdiction** of the country. Nor can the foreign *sovereign* have any motive for wishing such exemption. His subjects thus passing into foreign counties are not employed by him, nor are they engaged in national pursuits. Consequently there are powerful motives for not exempting persons of this description from the **jurisdiction** of the country in which they are found, and no one motive for requiring it. The implied license, therefore, under which they enter, can never be construed to grant such exemption.

In short, the judgment in the case of *The Exchange* declared, as incontrovertible principles, that the **jurisdiction** of every nation within its own territory is exclusive and absolute, and is susceptible of no limitation **not** imposed by the nation itself; that all exceptions to its full and absolute territorial **jurisdiction** must be traced up to its own consent, express or implied; that, upon its consent to cede, or to waive the exercise of, a part of its territorial **jurisdiction** rest *the exemptions from that **jurisdiction** of foreign sovereigns or their armies entering its territory with its permission, and of their foreign ministers and public ships of war*, and *that the implied license under which private individuals of another nation enter the territory and mingle indiscriminately with its inhabitants for purposes of business or pleasure can never be construed to grant to them an exemption from the **jurisdiction** of the country in which they are found*.

At this point one might wonder about a common situation where some alien(s) enter(s) the U.S.A. **illegally**, against the jurisdictional powers and laws of the state, not unlike any foreign invader – rather than being granted permission and admitted for business and/or pleasure reasons – and then gives birth simply as a underhanded method of gaining access to citizenship and the rights and benefits which follow for their offspring or themselves. This might come under the heading, in current times, of "**comprehensive immigration reform law**", which might exclude such methods of residence or citizenship (going forward) even while the laws and **jurisdiction** of the nation still continue to apply to nearly all found within its borders.

Not considering or touching on any of these factors, however, this part of the SCOTUS **opinion** then went on to conclude…

> The words "in the United States, **and** subject to the **jurisdiction** thereof" in the first sentence of the **Fourteenth Amendment** of the **Constitution** must be presumed to have been understood and intended by the **Congress** which proposed the amendment, and by the legislatures which adopted it, in the same sense in which the like words had been used by Chief Justice Marshall in the well-known case of *The Exchange* and as the equivalent of the words "within the limits and under the **jurisdiction** of the United States," and the converse of the words "out of the limits and **jurisdiction** of the United States" as habitually used in the naturalization acts. This presumption is confirmed by the use of the word "**jurisdiction**" in the last clause of the same section of the **Fourteenth Amendment**, which forbids any State to "deny to any person within its **jurisdiction** the equal protection of the laws." It is impossible to construe the words "subject to the **jurisdiction** thereof" in the opening sentence, as less comprehensive than the words "within its **jurisdiction**" in the concluding sentence of the same section; or to hold that persons "within the **jurisdiction**" of one of the States of the Union are not "subject to the **jurisdiction** of the United States."
>
> These considerations confirm the view, already expressed in this **opinion**, that the opening sentence of the **Fourteenth Amendment** is throughout affirmative and declaratory, intended to

allay doubts and to settle controversies which had arisen, and not to impose any new restrictions upon citizenship.

The SCOTUS **opinion** laid more upon this conclusion, thick and heavy. It finally concluded, within **Part V**, as follows.

The foregoing considerations and authorities irresistibly lead us to these conclusions:

…the **Fourteenth Amendment** affirms the ancient and fundamental rule of citizenship by birth within the territory, in the allegiance and under the protection of the country, including all children here born of resident aliens, *with the exceptions or qualifications* (as old as the rule itself) of children of foreign sovereigns or their ministers, or born on foreign public ships, or of enemies within and during a hostile occupation of part of our territory, and with the single additional exception of children of members of the Indian tribes owing direct allegiance to their several tribes. **[And it would be wise to one day add children of aliens who enter the country illegally.]** The amendment, in clear words and in manifest intent, includes the children born, within the territory of the United States, of all other persons, of whatever race or color, domiciled within the United States. Every **citizen** or subject of another country, while domiciled here, is within the allegiance and the protection [except, one might argue, those who enter illegally], **and** consequently subject to the **jurisdiction**, of the United States. His [the parent's] allegiance to the United States is direct and immediate, and, although but local and temporary, continuing only so long as he remains within our territory, is yet, in the words of Lord Coke in *Calvin's Case,* …, "strong enough to make a **natural** subject, for if he hath issue here, that issue is a **natural-born** subject;" and his child, as said by Mr. Binney in his essay before quoted, "if born in the country, is as much a **citizen** as the **natural-born** child of a **citizen**, and by operation of the same principle." It can hardly be denied that an alien is completely subject to the political **jurisdiction** of the country in which he resides -- seeing that, as said by Mr. Webster, when Secretary of State, in his Report to the **President** on *Thrasher's Case* in 1851, and since repeated by this court,

> independently of a residence with intention to continue such residence; independently of any domiciliation; independently of the taking of any oath of allegiance or of renouncing any former allegiance, it is well known that, by the public law, an alien, or a stranger born, for so long a time as he continues within the dominions of a foreign government [such as the U.S.A.], owes obedience to the laws of that government, and may be punished for treason, or other crimes, as a ***native-born*** subject might be, *unless* his case is varied by some treaty stipulations.

To hold that the **Fourteenth Amendment** of the **Constitution** excludes from citizenship the children, born in the United States, of **citizens** or subjects of other countries would be to deny citizenship to thousands of persons of English, Scotch, Irish, German, or other European parentage who have always been considered and treated as **citizens** of the United States.

The SCOTUS **opinion** then turned to other matters intended to further justify the verdict or **opinion** to be handed down in **Part VI** onward.

One very interesting statement in this SCOTUS **opinion** also reflects on the power of the **President** to deport **citizens** of other countries or nations.

In *Fong Yue Ting v. United States,* the right of the United States to expel such Chinese persons [or others] was placed upon the grounds that the right to exclude or to expel all aliens, or any class of aliens, absolutely or upon certain conditions, is an inherent and inalienable right of every sovereign and independent nation, essential to its safety, its independence and its welfare; that the power to exclude or to expel aliens, being a power affecting international relations, is vested in the political departments of the Government and is to be regulated by treaty or by act of **Congress** and to be executed by the executive authority according to the regulations so established, except so far as the judicial department has been authorized by treaty or by statute, or is required by the paramount law of the **Constitution**, to intervene; that the power to exclude and the power to expel aliens rest upon one foundation, are derived from one source, are supported by the same reasons, and are in truth but parts of one and the same power; and, therefore, that the power of **Congress** to expel, like the power to exclude aliens, or any specified class of aliens, from the country, may be exercised entirely through executive officers; or

> **Congress** may call in the aid of the judiciary to ascertain any contested facts on which an alien's right to be in the country has been made by **Congress** to depend.

The SCOTUS **opinion** continues with reference to yet another case…

> He is [they are] nonetheless an alien because of his having a commercial domicil in this country. While he lawfully remains here, he is entitled to the benefit of the guaranties of life, liberty and property, secured by the **Constitution** to all persons, of whatever race, within the **jurisdiction** of the United States. His personal rights when he is in this country, and such of his property as is here during his absence, are as fully protected by the supreme law of the land as if he were a native or **naturalized citizen** of the United States. But when he has voluntarily gone from the country, and is beyond its **jurisdiction**, being an alien, he cannot re*enter the United States in violation of the will of the Government as expressed in enactments of the lawmaking power*.

The same might be said for those, who have no standing or are not legal residents or **citizens**, who enter against the wishes of the government to begin with. This statement within this **opinion** sheds quite a bit of doubt on many cases where so called "dreamers" and/or "anchor babies" are concerned. When their parents, in effect, *invade* or *trespass* upon the U.S.A. illegally, without legal permission or standing or rights of engagement, then may their offspring or children (also brought in illegally) legitimately become **citizens**?? And, even if not, may they then be deported or exiled, under the care of their law breaking parent(s), or other relatives, etc. until such time as they might return and care and fend for themselves?

The SCOTUS **opinion** continues…

> The power, granted to **Congress** by the **Constitution**, "to establish a uniform rule of naturalization" was long ago adjudged by this court to be vested exclusively in **Congress**.
>
> The **Fourteenth Amendment** of the **Constitution**, in the declaration 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,
>
> contemplates two sources of citizenship, and two only: birth **and** naturalization. Citizenship by naturalization can only be acquired by naturalization *under the authority and in the forms of law*. But citizenship by birth is established by the mere fact of birth under the circumstances defined in the **Constitution**. Every person born in the United States, **and** subject to the **jurisdiction** thereof, becomes at once a **citizen** of the United States, and needs no naturalization. A person born out of the **jurisdiction** of the United States can only become a **citizen** by being **naturalized**, either by treaty, as in the case of the annexation of foreign territory, *or by authority of **Congress***, exercised either by declaring certain classes of persons to be **citizens**, as in the enactments conferring citizenship [or **natural-born** citizenship] upon foreign-born children of **citizens**, or by enabling foreigners individually to become **citizens** by proceedings in the judicial tribunals, as in the ordinary provisions of the naturalization acts.

The last sentence prior tends to indicate that even foreign born children of U.S. **citizens** (or a **citizen** in the case of one parent only) might, in fact, be considered by law to be U.S. **citizens** (at birth), or dual **citizens**, depending on the case. It does **not** state or make an ***opinion*** that they are **natural-born citizens**, however.

Likewise, the dissenting **opinion**, which shed the opposite light on many of the above subjects, also points out yet one more clue to obtaining citizenship as reviewed within the various statutes passed by **Congress** and which is listed below; that being…

> Section 1993 of the Revised Statutes provides that children so born
>
> > are declared to be **citizens** of the United States; but the rights of citizenship shall not descend to children whose fathers never resided in the United States.
>
> Thus, a limitation is prescribed on the passage of citizenship by descent beyond the second generation if then surrendered by permanent nonresidence, and this limitation was contained in all

the acts from 1790 down. Section 217 provides that such children shall "be considered as **citizens** thereof."

For example, as recorded within the Act of 1802 (see link below) taking into account the following words…

> CHAP. XXVIII - **An Act to establish an uniform rule of Naturalization, and to repeal the acts heretofore passed on that subject.**
>
> Be it enacted by the Senate and House of Representatives of the United States of America in **Congress** assembled, That…
>
> Section 4. And be it further enacted, That the children of persons duly **naturalized** under any of the laws of the United States, or who, previous to the passing of any law on that subject, by the government of the United States, may-have become **citizens** of any one of the said states, under the laws thereof, being under the age of twenty-one years, at the time of their parents being so **naturalized** or admitted to the rights of citizenship, shall, if dwelling in the United States, be considered as **citizens** of the United States, **and the children of persons who now are, or have been citizens of the United States, shall, though born out of the limits and jurisdiction of the United States, be considered as citizens** [vs. **natural-born citizens** as previously exclaimed] **of the United States**: Provided, that the right of citizenship shall not descend to persons whose fathers have never resided within the United States: Provided also, that no person heretofore proscribed by any state, or who has been legally convicted of having joined the army of Great Britain, during the late war, shall be admitted a **citizen**, as aforesaid, without the consent of the legislature of the state in which such person was proscribed.

OTHER FACTORS THAT MIGHT BE CONSIDERED

Much later, in a U.S. District Court in TX, an opinion was handed down, on February 16, 2015, concerning "Deferred Action for **Parents of Americans** [used to attempt to show that so called *dreamers* were already legal residents in the U.S.A. but their parents apparently were not] and Lawful Permanent Residents" or DAPA. Within this court opinion many of the same topics were covered; i.e. who are **citizens** or legal residents and who are not.

http://www.tmi-america.com/TMI/PDFS/Immigration-Ruling-TX-20150216.pdf

KEY RESOURCES

With that in mind, here are links **to the three key sources of information** discussed above.

(1) US-Citizen-Act-1790.pdf (citizenship/naturalization Acts passed by **Congress**)

then…

US-Citizen-Act-1795.pdf

then…

US-Citizen-Act-1798.pdf

then…

US-Citizen-Act-1802.pdf

then…

US-Citizen-Civil-Rights-Act-1866.pdf

as well as commentary, starting here, with further links for research…

https://en.wikipedia.org/wiki/Naturalization_Act_of_1790

(2) https://www.law.cornell.edu/supremecourt/text/169/649 (the key SCOTUS **opinion**)

(3) https://www.archives.gov/founding-docs (the **U.S. Constitution**, etc.)

CONCLUSIONS

Taken together and added up by this point in time, January 2018, one might conclude as follows concerning who might be considered a **U.S. citizen**; both as a **natural-born** and as a **naturalized U.S. citizen**.

The best way to become a U.S. **natural-born citizen** is to be both born within the territory of the U.S.A. and born to one or both parents who are U.S. **citizens** as well. This will assure all rights of citizenship as well as the right to run for any office in the land, such a **President** of the U.S.A.

The second best way to become a U.S. **natural-born citizen** is to be born (or conceived) by at least one parent who is already a U.S. **citizen**, by law, naturalization or by birth, even when outside the U.S.A. and its **jurisdiction**, whereby a person's biological father has at some point during his life been a (most likely legal) resident for some period within the/a territory of U.S.A. and under its **jurisdiction**. The time limit of the residence of the father does not seem to be well specified nor important. Note also that if the father is a U.S. **citizen** but has never spent any time during his life within the U.S.A. (perhaps he was born and remained abroad) and he then gives rise to offspring outside the U.S.A. along with an alien, non-**citizen**, mother it is most likely that such offspring will not be considered to have any right of U.S. citizenship; they most likely will only have citizenship within their country of birth. Likewise, such U.S. **citizens** may quite well become dual **citizens** of both the U.S.A. and the host nation, depending on the laws of the land where they are born.

It is also common U.S.A. legal understanding that both the first and second methods of become a U.S. **citizen** are consider the methods for becoming recognized as "**natural-born**" vs. "**naturalized**" U.S. **citizens** (i.e. born naturally to one or more U.S. **citizens**). However, this was more clearly stated in the Act of 1790 while not so clearly stated in the Act of 1802. From the Act of 1790…

> And the children of **citizens** of the United States, that may be born beyond sea, or out of the limits of the United States, shall be considered as **natural born citizens**: *Provided,* That the right of citizenship shall not descend to persons whose fathers have never been resident in the United States: …

For example, Ted Cruz, it was argued, was not eligible to run for **President** in 2017. Yet that argument failed the acid test because it was true that his mother was a (***natural-born***) ***citizen*** of the U.S.A. and his father was a legal resident much of his life within the U.S.A., even though Ted Cruz was born within the nation/territory of Canada. Due to these facts, and U.S. law, and because he himself lived enough years within the U.S.A. and was of valid age prior to running for office, Ted Cruz was legally able to run for **President** per the laws and the **U.S. Constitution** of the U.S.A. as a U.S. ***natural-born citizen***. The same applies to others such as **President** Obama and Senator McCain who ran for the same office. They met the necessary requirements laid out by law and the **U.S. Constitution**… IMHO.

The next and best way to become a U.S. **citizen** (although possibly neither **natural-born** nor **naturalized**) is to be born within the U.S.A. while under its **jurisdiction** (of which there are few and rare exceptions) even when neither parent is a U.S. **citizen**.

Beyond that the last way to become a legal U.S. **naturalized citizen** is to meet the necessary legal requirements under naturalization law(s) as passed by **Congress** and supported by the **Constitution of the United States**.

All of these laws and even the **U.S. Constitution** vary from time to time and **Congress** always manages to find ways to complicate them beyond any normal level of reason, while judges find even more ways to attempt to change them from the bench. Fortunately, that was not the case within the legal documents reviewed to this point.

Furthermore, according to U.S. code or regulations, outlined within the following links, which may cover the same bases and some extra bases, as outlined here within, there are several methods of U.S. citizenship of all specified types…

https://www.law.cornell.edu/uscode/text/8/1401

https://www.law.cornell.edu/wex/natural_born_citizen