

United States Citizenship Categories and Definitions

Truthmonk

A *citizen* (noun) is a legally recognized individual member of a state or commonwealth, who owes allegiance to a government, is entitled to protection from it, and has the rights to political participation in it.

Citizenship (noun) is the status of being a citizen with its attendant duties, rights, and privileges.

Two Categories of Citizenships

There are two categories of citizenship:^[1]

1. Natural born
2. Naturalized

Natural Born

Natural born or *by-birth* citizenship is the acquirement of citizenship at the moment of birth.^[2]

There are only two types of natural born citizen:

1. *Native-born* is being born within the territory of the state or commonwealth under the principle of *jus soli*
2. Attaining citizenship through the parents' citizenship status under the principle of *jus sanguinis*.

Jus Soli

The principle of birthright citizenship gained through being born within a country is called *jus soli* (Latin for “right of soil”). It isn't dependent on the citizenship of the parents.^[2]

In the United States the principle of *jus soli* goes back to before the creation of the Constitution. Territorial birthright citizenship was first formally established under English common law in the 1608 case of *Calvin v. Smith* (77 Eng. Rep. 377 (K.B. 1608)) whose decision was based upon the feudal relationship between a king or lord with their subjects in the early English feudal system.^[3]

The Fourteenth Amendment to the United States Constitution confirmed this birthright citizenship in the pertinent part of 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.” ^[Note 1]

It has been presumed that any person born within the territory of the United States, including the children of illegal aliens, are granted citizenship under the 14th Amendment to the United States Constitution.^[2] The only exception is for foreign diplomats' and officers' children.^[4 and Note 2]

Jus Sanguinis

The other natural born citizenship birthright is called *jus sanguinis* (Latin for “right of blood”). Jus sanguinis is based on having an ancestor or parent (often the father), who is a national or citizen of the state.^[2]

Jus sanguinis has even a longer history under English common law than jus soli. The concept of jus sanguinis dates back to at least 1351 when the statute de Natis Ultra Mare (25 Edw. 3, Stat. 2 (1351)) was passed. This statute became necessary due to King Edwards III's overseas military campaigns. The statute goes beyond just granting citizenship to the children of those in the King's service, to include “all children born beyond the sea whose fathers and mothers were at the faith and ligeance of the king of England, and provided that the mothers had gone outside the realm with the permission of their husbands, could inherit, i.e., that they were subjects.”^[5]

The concept of Jus sanguinis did influence the creation of the Constitution in the United States. The Naturalization Act of 1790 ((1 Stat. 103) March 26, 1790) clarifies this type of natural born citizen by declaring “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.” Thusly the act establishes the United States citizenship of citizens' children, who are born abroad, without the need for naturalization.^[Note 3]

Congress again confirmed jus sanguinis citizenship birthright in the Naturalization Act of 1795 (January 29, 1795 (1 Stat. 414)) “and the children of citizens of the United States, born out of the limits and jurisdiction of the United States, shall be considered as citizens of the United States.” While this leaves out the term natural-born, it does declare them to be citizens by-birth through their parents and therefore do not need the process of naturalization to become citizens.^[Note 4]

Naturalization

The other type of citizenship is through the legal process called *naturalization*.^[6] “Naturalization is the process by which U.S. citizenship is conferred upon a foreign citizen or national after he or she fulfills the requirements established by Congress in the Immigration and Nationality Act (INA). All naturalization applicants must demonstrate good moral character, attachment, and favorable disposition. The other naturalization requirements may be modified or waived for certain applicants, such as spouses of U.S. citizens. The general requirements for administrative naturalization include:

- a period of continuous residence and physical presence in the United States;
- residence in a particular USCIS District prior to filing;
- an ability to read, write, and speak English;
- a knowledge and understanding of U.S. history and government;
- good moral character;
- attachment to the principles of the U.S. Constitution; and,
- favorable disposition toward the United States.”

U.S. Constitution

While the U.S. Constitution requires a person to be a “natural born” Citizen to qualify for the Office of the President of the United States,

No person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President,^[Note 5]

it doesn't define what is meant by a “natural born” citizen^[6] nor is it discussed much among the Founding Fathers.

It is well settled law that “native-born” citizens qualify for the Office of the President because they are “natural-born” and that naturalized citizens do not qualify.^[7] “But whether a person born abroad of American parents, or of one American and one alien parent, qualifies as natural born has never been resolved.”

Pryor then goes on to explain, “Constitutional scholars have traditionally approached the uncertainty surrounding the meaning of the natural-born citizen clause by inquiring into the specific meaning of the term “natural born” at the time of the Constitutional Convention. They conclude that a class of citizens should be considered natural born today only if they would have been considered natural-born citizens under the law in effect at the time of the framing of the Constitution.”

The “clarifying” of the Naturalization Act of 1790 would seem to make birthright by descent a closed topic, however, some scholars see the act as indicating the “early Congress’ belief in its power to declare who would be natural-born citizens.” Some scholars believe that congress doesn't have the authority to define what constitutes natural-born citizenship. An understanding of the meaning of natural-born can only be realized by considering the interplay between it and the naturalization powers of Congress.

This remains a murky area of unsettled law. The U.S. Supreme Court has never made a ruling on its meaning and has only mentioned the natural-born citizen clause in dicta.

Notes

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. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

— The Fourteenth Amendment to the United States Constitution (proposed on June 13, 1866, and ratified on July 9, 1868), Section 1

2 Mr. HOWARD: ... *This amendment which I have offered is simply declaratory of what I regard as the law of the land already, that every person born within the limits of the United States, and subject to their jurisdiction, is by virtue of natural law and national law a citizen of the United States.* 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*. It settles the great question of citizenship and removes all doubt as to what persons are or are not citizens of the United States. This has long been a great desideratum in the jurisprudence and legislation of this country. (emphasis added)

— Debate on the 14th Amendment^[8]

3 An Act to establish an uniform Rule of Naturalization.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That any alien, being a free white person, who shall have resided within the limits and under the jurisdiction of the United States for the term of two years, may be admitted to become a citizen thereof, on application to any common law court of record, in any one of the states wherein he shall have resided for the term of one year at least, and making proof to the satisfaction of such court, that he is a person of good character, and taking the oath or affirmation prescribed by law, to support the constitution of the United States, which oath or affirmation such court shall administer; and the clerk of such court shall record such a[application, and the proceedings thereon; and thereupon such person shall considered as a citizen of the United States. And the children of such persons so naturalized, dwelling within the United States, being under the age of twenty-one years at the time of such naturalization, shall also be considered as citizens of the United States. 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: *Provided also,* That no person heretofore proscribed by any state, shall be admitted a citizen as aforesaid, except by an act of the legislature of the state in which such person was proscribed.

Approved, March 26, 1790.

— United States Naturalization Law of 1790 (March 26, 1790 (1 Stat. 103))

4 An Act to establish an uniform rule of Naturalization; and to repeal the act heretofore passed on that subject.

For carrying into complete effect, the power given by the constitution, to establish an uniform rule of naturalization throughout the United States:

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That any alien, being a free white person, may be admitted to become a citizen of the United States, or any of them, on the following conditions, and not otherwise:—

First. He shall have declared on oath or affirmation, before the supreme, superior, district or circuit court of some one of the states, or of the territories northwest or south of the river Ohio, or a circuit or district court of the United States, three years, at least, before his admission, that it was bona fide, his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign prince, potentate, state or sovereignty whatever, and particularly, by name, the prince, potentate, state or sovereignty whereof such alien may, at the

time, be a citizen or subject.

Secondly. He shall, at the time of his application to be admitted, declare on oath or affirmation, before some one of the courts aforesaid, that he resided within the United States, five years at least, and within the state or territory, where such court is at the time held, one year at least; that he will support the constitution of the United States; and that he doth absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign prince, potentate, state or sovereignty whatever, and particularly by name, the prince, potentate, state or sovereignty, whereof he was before a citizen or subject; which proceedings shall be recorded by the clerk of the court.

Thirdly. The court admitting such alien, shall be satisfied that he has resided within the limits and under the jurisdiction of the United States five years; he has behaved as a man of a good moral character, attached to the principles of the constitution of the United States, and well disposed to the good order and happiness of the same.

Fourthly. In case the alien applying to be admitted to citizenship shall have borne any hereditary title, or been of any of the orders of nobility, in the kingdom or state from which he came, he shall, in addition to the above requisites, make an express renunciation of his title or order of nobility, in the court to which his application shall be made; which renunciation shall be recorded in the said court.

SECTION 2. *Provided always, and be it further enacted,* That any alien now residing within the limits and under the jurisdiction of the United States, may be admitted to become a citizen, on his declaring on oath or affirmation, in some one of the courts aforesaid, that he has resided two years, at least, within and under the jurisdiction of the same, and one year, at least, within the state or territory where such court is at the time held; that he will support the constitution of the United States; and that he doth absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state or sovereignty whatever, and particularly by name, the prince, potentate, state or sovereignty, whereof he was before a citizen or subject; and moreover on its appearing to the satisfaction of the court, that during the said term of two years, he has behaved as a man of good moral character, attached to the constitution of the United States, and well disposed to the good order and happiness of the same; and, where the alien applying for admission to citizenship, shall have borne any hereditary title, or been of any of the orders of nobility in the kingdom or state from which he came, on his moreover making in the court an express renunciation of his title or order of nobility, before he shall be entitled to such admission; all of which proceedings, required in this proviso to be performed in the court, shall be recorded by the clerk thereof.

SECTION 3. *And be it further enacted,* That the children of persons duly naturalized, dwelling within the United States, and being under the age of twenty-one years, at the time of such naturalization; and the children of citizens of the United States, born out of the limits and jurisdiction of the United States, shall be considered as citizens of the United States; *Provided,* That the right of citizenship shall not descend to persons, whose fathers have never been resident in 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.

SECTION 4. *And be it further enacted,* That the act intituled "An act to establish an uniform rule of naturalization," passed the twenty-sixth day of March, one thousand seven hundred and ninety, be, and the same is hereby repealed.

Approved, January 29, 1795.

— The United States Naturalization Act of 1795 (January 29, 1795 (1 Stat. 414))

5 No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty five years, and been fourteen Years a resident within the United States.

— U.S. Constitution, Article II, Paragraph 5. (ratified by the Constitutional Convention on Sept. 17, 1787)

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