***We the People: the Citizen & the Constitution***

2019-2020 High School Hearing Questions

Information, Tips, Analysis, & Resources from the Oregon high school We the People community

Unit 6 / Q. 1

**National citizenship is defined as follows: “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.”\* Should the definition be changed to reflect additional or different criteria for national citizenship? Why or why not?**

* What are the rights and responsibilities of citizenship?
* What are the opposing positions regarding “birthright citizenship” and what might be the consequences of either side prevailing? Explain your position on this issue.

\* Fourteenth Amendment, 1868

**Collaboration Tips**

**7** different questions are in this overall question.

Historical events/context that connects to this question:

* **Constitutional convention / slaves & indigenous**
* **14th Amendment background**
* **1924 Indian Citizenship Act**
* **23rd Amendment**

Sections of the Constitution:

* **Article 1, Sec. 2**
* **Article 1, Sec. 8**
* **14th Amendment**
* **23rd Amendment**
* **OR Constitution - original exclusions from citizenship**

Possible Current Events:

* **Birthright citizenship discussions in the Executive Branch**

Possible Court Cases:

* ***Cherokee Nation v. Georgia***
* ***Worcester v. Georgia***
* ***Dred Scott***

**Comments from Justice Jack Landau:**

*Birthright citizenship: There are differing views about whether the Fourteenth Amendment actually grants birthright citizenship. The conventional (correct) view is that, at common law -- dating back to the 1608 Caleb's case -- citizenship was determined by geographic place of birth. If you were born in the US, you were a citizen of the US. At least until 1857 and the Dred Scott decision, in which the Supreme Court recognized, in effect, an exception for blacks, because they "are beings of an inferior order." The Fourteenth Amendment's citizenship clause was intended to repudiate Dred Scott and a restoration of the common-law rule that geography determines citizenship. Recently, an alternative view has emerged, that the Fourteenth Amendment doesn't have that effect. Michael Anton, a former national security advisor, published an op-ed piece in the Washington Post in which he suggests that the Fourteenth Amendment has more limited effect and that only persons "subject to the jurisdiction thereof" -- that is, in the country legally -- become citizens if born here.* <https://www.washingtonpost.com/opinions/citizenship-shouldnt-be-a-birthright/2018/07/18/7d0e2998-8912-11e8-85ae-511bc1146b0b_story.html> . *According to Anton, if you look at the legislative history of the 39th Congress that adopted the Fourteenth Amendment, a Senator Jacob Howard explained that the "subject to the jurisdiction thereof" qualification was intended to exclude "persons who are aliens or who belong to families of ambassadors." The problem with the argument is that the actual quotation excludes the "or," so that Howard explained that the "subject to the jurisdiction thereof" qualification was only intended to exclude "aliens who belong to families of ambassadors." Anton later acknowledge that he basically rewrote Howard's statement, but he insisted that his rewrite better reflects what Howard really meant to say. Pretty neat trick, getting to literally rewrite history.*

*Rights and responsibilities: All citizens, including naturalized citizens possess all the rights and guarantees stated in the Constitution -- free speech, free exercise of religion, right against self-incrimination, right to hold property, right to be free from unreasonable searches, etc. (Actually, the rights and guarantees in the Bill of Rights and the Fourteenth Amendment apply to all persons, not just citizens.) In addition, citizens may hold public office (subject to local residency requirements). Citizens have the right to vote (although that was not always the case). All citizens have corresponding obligations to obey laws, pay taxes, serve on juries, and (on occasion) serve in the military.*