

A timely theme for Law Day

For this year's Law Day, which is Monday, the American Bar Association chose the theme of the Constitution's 14th Amendment to celebrate and educate. The timely theme is of import to all.

The 2016 presidential election, aside from being one of the ugliest in American history, resurrected fears that the character of our nation was being threatened by the influx of so-called "illegal" immigrants. Especially during the Republican primary debates, Donald Trump used the term "anchor ba-

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Commentary

entitled to birthright citizenship even if born to non-citizens.

In the latter half of the 19th century, nativist and populist movements in the United States preyed upon the fear of native-born white Americans that Asian immigrants were taking jobs and threatening their jobs. As a result,

In a 6-2 decision, the Supreme Court disagreed, holding that "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. . ." As the Supreme Court held, the citizenship clause of the 14th Amendment was a constitutional codification of English Common Law. It would have been unnecessary but for the infamous 1857 decision in *Dred Scott v. Sanford*,

makers drafted the 14th Amendment, which was ratified by the states in 1868.

As it turns out, Congress' fears were not unwarranted.

In a 2015 appearance with Fox's Bill O'Reilly, candidate Donald Trump attempted to convince O'Reilly that birthright citizenship could be repealed by an act of Congress without amending the Constitution. That same year, Rep. Steve King, R-Iowa, introduced HR 140, the Birthright Citizenship Act of 2015, which would have limited birthright citizenship to persons born in the United States to a citizen or lawful permanent resident of the United States. But King is not the only member of Congress to attempt to limit the Constitutional right to birthright citizenship. In 1993, Sen. Harry Reid, D-Nev., introduced the Immigration Stabilization Act of 1993 to "clarify" the 14th Amendment to exclude the children of parents who entered the country illegally. Fortunately, both attempts to limit birthright citizenship failed, and Reid later apologized for having promoted the bill.

Nonetheless, there can be little doubt that the Founding Fathers intended that all children born in the United States, no matter how their parents arrived here, are entitled to birthright citizenship.

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abies” to describe the supposed practice of pregnant women entering the United States illegally and, because of the 14th Amendment, delivering their babies in the United States so as to entitle them to “birthright citizenship.”

The initial clause of the Fourteenth Amendment states: “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States.” The Supreme Court, in 1898, made clear that any child born in the United States is

Congress passed the Chinese Exclusion Act of 1882, which suspended Chinese immigration for 10 years and was renewed for a second, 10-year term in 1892.

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in which the Supreme Court ruled that slaves, former slaves, and their descendants were not eligible for United States citizenship.

As soon as the Civil War was over, Congress passed the Civil Rights Act of 1866, which, in addition to freeing the slaves, guaranteed citizenship to “all persons born in the United States and not subject to any foreign power . . .” Fearing that a later Congress might repeal the citizenship guarantee contained in the Civil Rights Act, law-