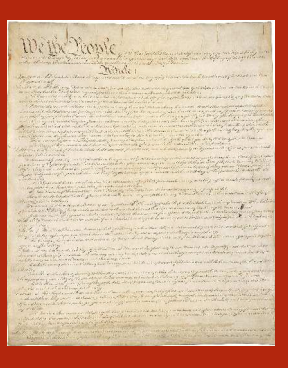




Civics is all around us. There is a lot to know about the government and how "We the People" interact with the government and each other. Let's help each other expand our civic literacy.

Being a citizen of the United States is a privilege that comes with **certain responsibilities as well as rights**. One of the more pressing discussions in the media today focuses on **citizenship**, who is a citizen, and who is entitled to the rights of citizenship. However, this is not a new discussion. Since our founding, the United States has continuously faced the question of who qualifies as a citizen, and the answer has progressed over time. So what does the U.S. Constitution say, and how has that answer evolved?

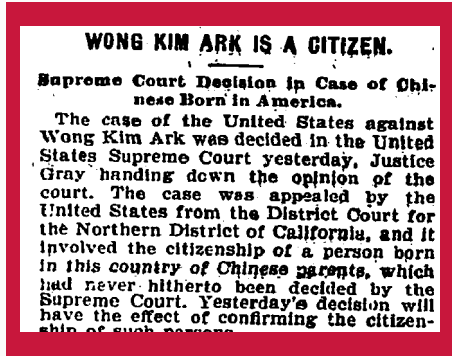


The U.S. Constitution, as written, is relatively quiet on citizenship and who can be a citizen of either the states or the nation. Under **Article I, Section 8, Clause 4**, Congress has the power to create naturalization laws that provide a process for becoming a citizen. At the end of the 18th century, the first naturalization laws established rules for 'free white persons' to become citizens. The courts generally interpreted this as applying to only Christians, and women could not get citizenship on their own, with some exceptions.

Outside of allowing for the creation of a naturalization process, the U.S. Constitution starts from the **assumption** that those it impacts are already citizens, either of a state or of the United States. Indeed, several judicial decisions throughout the early 19th century relied on English common law to answer the question of citizenship. Based on this precedent, an individual was automatically a citizen of the place

where they were born. However, there were restrictions on this, particularly that it was mostly applicable to white males. This was most evident in the infamous **Dred Scott v Sandford** (1857) decision, where the Supreme Court ruled that this very long-established principle did not apply to African Americans. This, however, would change as the nation worked to live up to the promises of its **founding principles**.

It is the **Fourteenth Amendment**, ratified following the U.S. Civil War and the end of slavery, that **reversed Dred Scott and firmly established in our U.S. Constitution** the principle understood today as birthright citizenship. It states, "*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.*" The key phrase in that sentence is 'subject to the jurisdiction thereof'. Generally speaking, **the courts** have interpreted this phrase to mean people are required to follow the laws of the United States. As such, it would **not apply to the children of diplomats**, for example, who follow the laws of another country. Originally, it also did not apply to Native Americans because of the way in which **treaty agreements** defined the relationship between tribes and the federal government. However, citizenship was extended to all Native Americans born in the United States in 1924 with the passage of the **Indian Citizenship Act**.



Consistently, the Supreme Court has relied on the language of the Fourteenth Amendment and the traditions of the United States to uphold and expand who can be considered a citizen. The **United States v. Wong Kim Ark** (1898) decision established the most important precedent following the ratification of the 14th Amendment. This decision held that a child born to Chinese immigrants who were not citizens but living legally in the United States was considered a natural-born citizen of the United States. Under this interpretation, to be born in the United States and subject to U.S. law is to be a citizen of the United States.

As our nation continues to work to live up to the ideals expressed in our founding documents, it will continue to spark civil discourse on topics such as citizenship. As all three branches of government navigate new questions that arise over time, it will be interesting to see if the precedent of birthright citizenship continues to be upheld.

To Think and To Do: The U.S. Supreme Court addressed key provisions of the 14th Amendment's Citizenship Clause in *United States v. Wong Kim Ark*. Read the **excerpts** from both the majority opinion and dissent from The National Constitution Center. Select two quotes from each that best summarize their arguments.

Learn MORE:

- [History of the Certificate of Citizenship](#), from the National Archives
- [Non-Citizen Nationality](#), from the U.S. Department of State



Lou Frey Institute