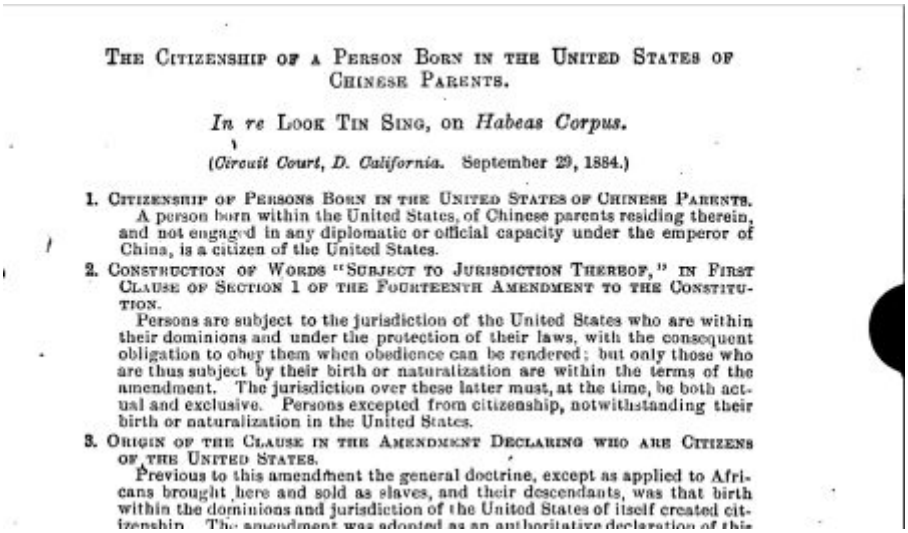
“Citizenship” vs. “natural born Citizen”

NONSENSE ELEVATED TO AN ART FORM

by [Joseph DeMaio](), ©2023



THE CITIZENSHIP OF A PERSON BORN IN THE UNITED STATES OF CHINESE PARENTS.

In re LOOK TIN SING, on *Habeas Corpus.*

(*Circuit Court, D. California.* September 29, 1884.)

1. CITIZENSHIP OF PERSONS BORN IN THE UNITED STATES OF CHINESE PARENTS.
A person born within the United States, of Chinese parents residing therein, and not engaged in any diplomatic or official capacity under the emperor of China, is a citizen of the United States.
2. CONSTRUCTION OF WORDS "SUBJECT TO JURISDICTION THEREOF," IN FIRST CLAUSE OF SECTION 1 OF THE FOURTEENTH AMENDMENT TO THE CONSTITUTION.
Persons are subject to the jurisdiction of the United States who are within their dominions and under the protection of their laws, with the consequent obligation to obey them when obedience can be rendered; but only those who are thus subject by their birth or naturalization are within the terms of the amendment. The jurisdiction over these latter must, at the time, be both actual and exclusive. Persons excepted from citizenship, notwithstanding their birth or naturalization in the United States.
3. ORIGIN OF THE CLAUSE IN THE AMENDMENT DECLARING WHO ARE CITIZENS OF THE UNITED STATES.
Previous to this amendment the general doctrine, except as applied to Africans brought here and sold as slaves, and their descendants, was that birth within the dominions and jurisdiction of the United States of itself created citizenship. The amendment was adopted as an authoritative declaration of this

[http://libraryweb.uchastings.edu/library/research/special-collections/wong-kim-ark/21%20F.%20905.pdf]()

(Mar. 26, 2023) — *Your humble servant again responds to comments from “Lucius Boggs” made on March 24, 2023 at 11:10 a.m. to the article [here]().*

Boggs: Assistant Vice-Chancellor Lewis H. Sanford wrote the Lynch v Clarke opinion not Chancellor Nathan Sanford.

Response: The correction is noted, but a new question arises: does the name “Lewis H. Sanford” appear anywhere in the records of the U.S. Supreme Court as being one of the Court’s Justices?

Boggs: In re Look Tin Sing (1884) came after Minor v. Happersett (1875) not prior to.

Response: Some of the confusion here may arise because Justice Stephen J. Field’s opinion in *In re Look Tin Sing* – with Supreme Court Justice Field apparently sitting by designation on the panel for the Circuit Court of Appeals for the District of California from which he came – is inconsistent with the prior USSC decision in *Minor* which he joined.

Curiously, Justice Fields’ opinion in *In re Look Tin Sing* does not even cite, much less discuss, the decision in *Minor* or the circumstance that he joined in the unanimous decision.

Moreover, if he had changed his mind after signing on to the decision in *Minor* – which opinion emphasizes that "[w]e [in the plural, including Justice Field] have given this case the careful 1:consideration its importance demands…"and, nine years later, thought that the natural born citizen "never any doubts" discussions in *Minor*, even if considered to be dictum, was no longer correct – one would, at minimum, have expected him to acknowledge that fact in *In re Look Tin Sing*. But he did not.

This may have been because *In re Look Tin Sing* was a habeas corpus case rather than a 14th Amendment constitutional case. But the fact remains that USSC decisions – including *Minor* – that arise in the context of the 14th Amendment addressing "citizens" and "citizenship" rather than who may (or may not) qualify as a "natural born Citizen" under Art. 2, § 1, Cl. 5 of the Constitution, do not directly answer the presidential eligibility question. All the more reason to try to get a justiciable "POPE" law "case or controversy" before the Court.

Boggs: I would suggest that "Joseph DeMaio" read Justice Curtis' dissent in Dred Scott (paying attention to his statement on "natural-born citizen")

Response: Justice Curtis said in his dissent (15 L.Ed. at 725): "The first section of the second article of the Constitution uses the language, 'a natural-born citizen.' It thus assumes that ***citizenship*** may be acquired by birth. Undoubtedly, this language of the Constitution was used in reference to that principle of public law, well understood in this country at the time of the adoption of the Constitution, which referred ***citizenship*** to the place of birth." (Emphasis added) The focus was on "citizenship," not on who might or might not be a natural born citizen.

Boggs: then read Justice Field's dissent in the Slaughterhouse Cases (paying attention to his statement on Justice Curtis' dissent).

Response: Justice Field said, 83 U.S. at 38: "In the Dred Scott case this subject of ***citizenship*** of the United States was fully and elaborately discussed. The exposition in the opinion of Mr. Justice Curtis has been generally accepted by the profession of the country as the one containing the soundest views of constitutional law. And he held that, under the Constitution, ***citizenship*** of the United States in reference to natives was dependent upon ***citizenship*** in the several States, under their constitutions and laws." (Emphasis added) The focus was on "citizenship," not on who might or might not be a natural born citizen.

Boggs: Next read Justice Miller's opinion in the Slaughterhouse Cases (paying attention to his statement on "subject to the jurisdiction")

Response: Justice Miller said, 83 U.S. at 52: "But the fourteenth amendment does define ***citizenship*** and the relations of citizens to the State and Federal government. It ordains 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 where they reside.' ***Citizenship*** in a State is made by residence and without reference to the consent of the State."

(Emphasis added) Once again, the focus was on "citizenship," not on who might or might not be a natural born citizen.

Boggs: and then reading Justice Field's opinion [in] In re Look Tin Sing (paying attention to his statement on "subject to the jurisdiction").

Response: Justice Field's statement on 'subject to the jurisdiction' is found at 21 F. 906: "The first section of the fourteenth amendment to the constitution declares 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…" and "[t]he words … mentioned except from ***citizenship*** children born in the United States of persons engaged in the diplomatic service of foreign governments, such as ministers and ambassadors, whose residence, by a fiction of public law, is regarded as part of their own country." (Emphasis added). Once more, the focus is on "citizens" and "citizenship.," not on who might or might not be a natural born citizen.

Boggs: "After finishing those, maybe [DeMaio] could answer whether he thinks Justice Field might be one of the "authorities" who "include as citizens children born within the jurisdiction without reference to the citizenship of their parents."

Response: After perusal of those opinions, your humble servant accepts the invitation to opine on whether Justice Field "might be one of the 'authorities' who 'include as citizens children born within the jurisdiction without reference to the citizenship of their parents.'

Your servant first responds that, whether or not Justice Field might be included in the "de Vattel Denier" group of persons being addressed in *Minor*, the reality is that such classification is irrelevant. This is so because each of the suggested opinions, at bottom, focuses on the neologism "natural born citizenship."

As explained here and here, the term "natural born citizenship" is a neologism, a synthetic, concocted term having meaning only in the mind of the one doing the concocting.

Stated otherwise, "natural born citizenship" is a neologism seeking to blend the concept of a "natural born Citizen" under a de Vattel § 212 definition and as set out in Art. 2, § 1, Cl. 5 of the Constitution with the decidedly different terms "citizen" and "citizenship" addressed in the 14th Amendment.

By attempting to label concepts of "citizenship" as being merely the plural form of a "natural born citizen" as defined by de Vattel, the neologism "natural born citizenship" is hatched and peddled to the electorate and general public – including the Congress – as the purported justification to equate a "14th Amendment "citizen" with an nbC: they are, in the Left's twisted view, synonymous.

This is nonsense elevated to an art form. Nowhere in the Constitution is the term "natural born citizenship" found. Moreover, the attempt via semantic gymnastics to manufacture

and market a meaningless term intended to “settle” the nbC presidential eligibility conundrum is juvenile and simply underscores the value of the POPE alternative.