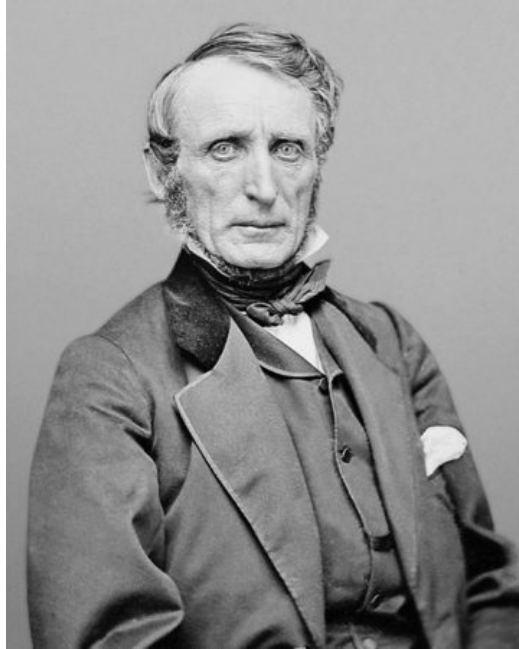


nbC Comment Merits Response

by [Joseph DeMaio](#), ©2024



Rep. John Bingham (public domain)

(Jan. 15, 2024) — As interest in the “natural born Citizen” (“nbC”) eligibility issue under the Constitution builds following the recent [post](#) by President Trump suggesting that Nikki Haley might have an eligibility problem, several posts here at *The P&E* have generated insightful reader comments.

One such comment from reader “Leland” is in response to your humble servant’s post [here](#). The comment focuses on the statement made by the prime author of the 14th Amendment, Congressman John Bingham in 1862, prior to the actual finalization of the amendment in 1866. Apart from a minor, non-substantive typo error, the reader quotes the Congressman from his remarks made on April 11, 1862 thusly:

“The Constitution leaves no room for doubt about this subject. The word[s] ‘natural-born citizen of the United States’ occur in it, and the other provision also occurs in it that ‘Congress shall have power to pass a uniform system of naturalization.’ To naturalize a person is to admit him to citizenship. Who are natural-born citizens but those born within the Republic? Those born within the Republic, whether black or white, are citizens by birth – natural-born citizens.”

The reader then targets the last sentence of the remarks and asks whether your servant agrees with Congressman Bingham that “‘citizens by birth’ are ‘natural born citizens’?”

The answer is: “As the question is posed, no, but with explanatory qualifications.”

Some additional explanation will assist the commenter (and others) in understanding that response. The short explanation is that while all nbC's are also "citizens by birth," the inverse – as suggested by the question as the reader posed it – is **not** true: not all "citizens by birth" are nbC's.

Furthermore, the context within which Congressman Bingham's remarks were made cannot be overlooked, as they plainly demonstrate that – ahead of his time – he understood Venn diagrams: while all nbC's are **also** "citizens by birth," not all "citizens by birth" or "citizens at birth" are nbC's.

In order to reconcile what might be seen as (or suggested to be) an inconsistency between Congressman Bingham's statements as noted in the comment and as set out in your servant's post, one needs to read the entire paragraph containing his remarks. Specifically, after first stating that "[t]hose born within the Republic, whether black or white, are citizens by birth – natural-born citizens....," Bingham **thereafter** added that the term nbC meant that, whether black or white, the person had to have been born to "parents owing allegiance to no other sovereignty...." Clearly, when he referred to a "citizen by birth" as being an nbC, it was conditioned by a recognition that the nbC was a person born here to parents owing allegiance to no other sovereignty: two U.S. citizen parents.



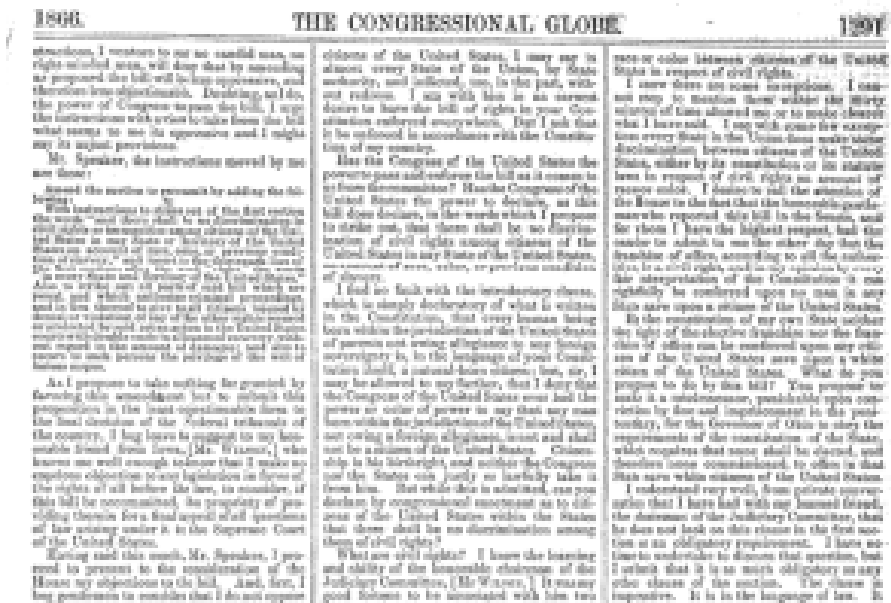
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It is counterintuitive to argue or conclude that Congressman Bingham would have considered that someone who was a "citizen by birth," standing **alone** without reference to the citizenship status of the parents, would nonetheless be properly classified as an nbC. Accordingly, the only rational interpretation of his first observation is that, whether a person was born black or white, if – but **only** if – that person's parents were people "owing allegiance to no other sovereignty..." would the black child or the white child be properly seen to be an nbC.

Under the commenter’s veiled suggestion that Congressman Bingham thought otherwise because, concededly, he did not specifically preview his later clarifying definition of an nbC, Bingham’s words, if literally applied out of context, could lead to absurd results.

For example, the Congressman said: “Those born within the Republic, whether black or white, are citizens by birth – natural-born citizens.” Standing alone *without* subsequent contextual clarification, those words could be interpreted – erroneously – to mean that Bingham was contending that the child of a white diplomat from Switzerland or a black diplomat from Nigeria, if “born within the Republic,” was not only a “citizen,” but an nbC as well. As the farmer told the city-slicker: “You can’t get there from here.”

Moreover, the commenter focuses on Congressman Bingham’s comments from 1862, when the 14th Amendment was only a concept, rather than his comments from 1866, when the amendment was actually being refined for passage prior to the ratification process. His 1866 remarks clearly reiterate and *fortify* his prior comments from 1862, stating: “[E]very human being [whether black, white or plaid (DeMaio insert)] born within the jurisdiction of the United States *of parents not owing allegiance to any foreign sovereignty is, in the language of your Constitution itself, a natural-born citizen....*” (Emphasis added)



<https://www.congress.gov/congressional-globe/congress-39-session-1-part-2.pdf>

Again, while all nbC’s are *also* “citizens by birth,” not all “citizens by birth” or “citizens at birth” are nbC’s. Think Venn diagrams. Congressman Bingham’s 1866 comments, post-dating his 1862 comments relating to a concept as opposed to an actual bill (S. 61) eventually to be ratified as the 14th Amendment, make it clear that his remarks from both years are consistent and any extra-contextual anomalies are baseless. And even if they may be viewed as cosmetically appealing, they are easily reconciled.

Bottom line: Bingham believed – correctly – that an nbC was a person born here to two U.S. citizen parents who possessed undivided allegiance to the United States alone. While the 14th Amendment affects all “citizens,” including nbC’s, it neither creates nbC’s nor does it alter the definition or meaning of the term as understood by Congressman John Bingham or as the Founders intended when they adopted it in Art. 2, § 1, Cl. 5 of the Constitution.

Full stop.