

4 American Citizenship

Section Preview

OBJECTIVES

1. **Identify** the questions surrounding American citizenship.
2. **Describe** how people become American citizens by birth and by naturalization.
3. **Explain** how an American can lose his or her citizenship.
4. **Illustrate** how the United States is a nation of immigrants.
5. **Compare and contrast** the status of undocumented aliens and legal immigrants.

WHY IT MATTERS

People can receive American citizenship through their parents or by undergoing a rigorous process of naturalization. As immigration to the United States has surged, record numbers of immigrants are becoming American citizens.

POLITICAL DICTIONARY

- ★ citizen
- ★ jus soli
- ★ jus sanguinis
- ★ naturalization
- ★ alien
- ★ expatriation
- ★ denaturalization
- ★ deportation

Are you an American **citizen**—one who owes allegiance to the United States and is entitled to its protection? Very likely you are; more than 90 percent of all the people who live in this country are citizens of the United States. Many of those who are not citizens actively seek that distinction.

The Question of Citizenship

As it was originally written, the Constitution mentioned both “citizens of the United States” and “citizens of the States.” It did not define either of those phrases, however. Through much of America’s early history, it was generally agreed that national citizenship followed that of the States.

The coming of the Civil War and the adoption of the 13th Amendment in 1865 raised the need for a constitutional definition.¹¹ That need was finally met in 1868 by the 14th Amendment, which begins with these words:

FROM THE
Constitution

“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.”

—United States Constitution

Thus, the 14th Amendment declares that a person can become an American citizen either by birth or by naturalization. The chart on page 615 summarizes the means by which American citizenship can be acquired.

Citizenship by Birth

Some 260 million Americans—over 90 percent of us—are American citizens because we were born in the United States. Another several million are also citizens by birth, even though they were born abroad. Citizenship by birth is determined in two ways: **jus soli** and **jus sanguinis**.

Jus soli is the law of the soil, or where one is born. The 14th Amendment confers citizenship according to the location of a person’s birth: “All persons born . . . in the United States. . . .” Congress has defined the United States to include, for purposes of citizenship, the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, and the Northern Mariana Islands. It also includes American embassies and American public vessels abroad.

Until 1924, Native Americans born to tribal members living on reservations were not citizens,

¹¹In the Dred Scott case (*Scott v. Sandford*) in 1857, the Supreme Court had ruled that neither the States nor the National Government had the power to confer citizenship on African Americans—slave or free. The dispute over that issue was one of the several causes of the Civil War.

Rules of Naturalization



To become a naturalized citizen, a person must:

- ★ be at least 18 years old
- ★ have entered the country legally, lived in the United States for at least five years, and in certain States for at least three months
- ★ file a petition for naturalization with the clerk of a Federal district court or a State court of record
- ★ be literate in the English language
- ★ be "of good moral character," "attached to the principles of the Constitution," and "well disposed to the good order and happiness of the United States"
- ★ have "a knowledge and understanding of the fundamentals of the history, and the principles and form of government, of the United States"
- ★ take an oath or affirmation in which he or she absolutely renounces any allegiance to any foreign power and promises to "support and defend the Constitution and laws of the United States against all enemies, foreign and domestic"

Interpreting Charts Which of these requirements do you think is the most difficult to evaluate?

but wards, persons under the legal guardianship, of the government. In that year, Congress granted citizenship to all Native Americans who did not already possess it.

Jus sanguinis is the law of the blood, or to whom one is born. A child born abroad can become an American citizen at birth under certain circumstances described in the chart on page 615. The child must be born to at least one parent who is a citizen, and who has at some time lived in the United States.

The 14th Amendment does not provide for jus sanguinis, but Congress has included it as a part of American citizenship law since 1790. The constitutionality of the rule has never been challenged.

Citizenship by Naturalization

Naturalization is the legal process by which a person becomes a citizen of another country at some time after birth. Congress has the exclusive power to provide for naturalization. No State may do so.¹²

Individual Naturalization

Naturalization is most often an individual process, conducted by a court. More than 800,000 aliens now become naturalized American citizens each

year. An **alien** is a citizen or national of a foreign state living in this country.

Generally, any person who has come to the United States as an immigrant can be naturalized. The chart on page 615 describes the different ways that people become American citizens.

The Immigration and Naturalization Service (INS) in the Department of Justice investigates each applicant, and then reports to the judge of the court overseeing the petition for naturalization. If the judge is satisfied, the oath or affirmation is administered in open court, and the new citizen receives a certificate of naturalization.

Collective Naturalization

At various times in American history an entire group of persons has been naturalized *en masse*. This has most often happened when the United States has acquired new territory. As the chart on the next page indicates, those living in the areas involved were naturalized by a treaty or by an act or a joint resolution passed by Congress.

The largest single instance of collective naturalization came with the ratification of the 14th Amendment, however. The most recent instance occurred in 1977, when Congress gave citizenship to the more than 16,000 native-born residents of the Northern Mariana Islands.

Loss of Citizenship

Although it rarely happens, every American citizen, whether native-born or naturalized, has the right to renounce, or voluntarily abandon, his or her citizenship. **Expatriation** is the legal process by which a loss of citizenship occurs.

The Supreme Court has several times held that the Constitution prohibits automatic expatriation. That is, Congress cannot take away a person's citizenship for something he or she has done. Thus, actions such as committing a crime, voting in a foreign election, or serving in the armed forces of another country are not grounds for automatic expatriation.¹³

¹²Article I, Section 8, Clause 4.

¹³A person convicted of a federal or a State crime may lose some of the privileges of citizenship, however, either temporarily or permanently—for example, the right to travel freely or to vote or hold public office.

Acquiring Citizenship

Naturalization

Individually

★ Naturalization of both parents (one parent if divorced or the other is dead) automatically naturalizes children under 16 who reside in the United States. Adopted children born abroad are automatically naturalized if under 18 when adoption becomes final.

★ Federal Courts: Any United States district court

★ State and Territorial Courts: Any general trial court

Collectively

Treaties:

★ Louisiana (1803)

★ Florida (1819)

★ Alaska (1867)

Joint Resolution
of Congress:

★ Texas (1845)

Acts of Congress:

★ Hawaii (1898), Puerto Rico (1917), Native Americans (1924), Virgin Islands (1927), Guam (1950), Northern Mariana Islands (1977)

Constitutional Amendment:

★ African Americans and others by 14th Amendment (1868)

Birth

Jus Sanguinis

A child born to an American citizen on foreign soil becomes a citizen if:

★ both parents are American citizens, and at least one has lived in the United States or an American territory at some time

★ one parent is an American citizen who has lived in the United States for at least 10 years, 5 of them after age 14, and the child has lived in the United States continuously for at least 5 years between the ages of 14 and 28

Jus Soli

A child becomes an American citizen if born in the United States, Puerto Rico, Guam, Virgin Islands, Northern Mariana Islands, any United States embassy, or aboard a United States public vessel anywhere in the world

Interpreting Charts Most Americans acquire citizenship at birth. *Name two additional ways that people can acquire American citizenship.*

Naturalized citizens can lose their citizenship involuntarily. However, this process—**denaturalization**—can occur only by court order and only after it has been shown that the person became a citizen by fraud or deception.

A person can neither gain nor lose American citizenship by marriage. The only significant effect that marriage has is to shorten the time required for the naturalization of an alien who marries an American citizen.

A Nation of Immigrants

We are a nation of immigrants. Except for Native Americans—and even they may be the descendants of earlier immigrants—all of us have come here from abroad or are descended from those who did.

There were only some 2.5 million persons in the United States in 1776. Since then, the population has grown a hundredfold, to more than 285 million people today. That extraordinary population growth has come from two sources: births and immigration. About 70 million immigrants have come here since 1820, when figures were first recorded.

Regulation of Immigration

Congress has the exclusive power to regulate immigration. Congress alone may decide who

may be admitted to the United States and under what conditions. The power to control the nation's borders is an inherent power of the United States (see Chapter 4, page 91). In an early leading case on the point, the Court ruled that the power of the United States to "exclude aliens from its territory . . . is not open to controversy," *Chae Chan Ping v. United States*, 1889. The States have no power in the field, *The Passenger Cases*, 1849.

Congress made no serious attempt to regulate immigration for more than a century after independence. As long as land was plentiful and expanding industry demanded more workers, immigration was encouraged.

By 1890, however, the open frontier was a thing of the past, and labor was no longer in short supply. Then, too, the major source of immigration had shifted. Until the 1880s, most immigrants had come from the countries of northern and western Europe. The "new immigration" from the 1880s onward came mostly from southern and eastern Europe. All these factors combined to bring major changes in the traditional policy of encouraging immigration.

Congress placed the first major restrictions on immigration with the passage of the Chinese Exclusion Act in 1882. At the same time, it barred the entry of convicts, "lunatics," paupers, and others likely to become public charges.