

Birthright Citizenship and Suspension of Deportation

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ABSTRACT

In January 2025, Donald Trump issued an Executive Order that claimed authority to abolish birthright citizenship for children of unlawfully present or temporarily present parents. That novel arrogation of power violated both the Constitution—as the Supreme Court held in June 2026—and also the legislation enacted by Congress on U.S. citizenship. The large literature on birthright citizenship has analyzed the issue primarily from the constitutional perspective, as did the opinions in the Supreme Court case.

This article examines that statutory issue, especially through the lens of one highly revealing aspect of the twentieth-century evidence. The law and practice of suspension of deportation for noncitizen parents of children born as citizens while their parents were unlawfully or temporarily present in the United States documents repeated confirmation of the shared interpretation of Congress and the Executive Branch on the scope of birthright citizenship, as embodied in the 1940 Nationality Act and then the 1952 Immigration and Nationality Act (INA). The President has no authority to violate that statutory guarantee.

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INTRODUCTION

On June 30, 2026, the Supreme Court invalidated as unconstitutional Executive Order No. 14160, titled “Protecting the Meaning and Value of American Citizenship,” which purported to overturn long-established guarantees of birthright citizenship for children born in the United States if neither of their parents is a citizen or a lawful permanent resident.¹ Prior to 2025, a vast literature had

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demonstrated that such a radical reversal of U.S. citizenship law, if carried out by Congress as an amendment to the Immigration and Nationality Act of 1952 (INA), would violate the Fourteenth Amendment.² Less had been written about the novel notion that a president might claim to accomplish this result unilaterally, in despite of both the Constitution and the INA. In *Trump v. Barbara*,³ Chief Justice Roberts wrote for a majority of five, finding the Executive Order unconstitutional without reaching the statutory issue. Justice Kavanaugh wrote separately, disagreeing about the Constitution but finding a violation of the INA.⁴

As the Supreme Court held in *Barbara*, its decision over a century earlier in *United States v. Wong Kim Ark*⁵ correctly described the Citizenship Clause of the Fourteenth Amendment as building on the common law *jus soli* rule⁶ that the United States retained from England. The *Dred Scott* decision had infamously held that people of African descent could not be citizens under the Constitution,⁷ and after the abolition of slavery the Citizenship Clause repudiated that decision, providing 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.”⁸ *Wong Kim Ark* explained the qualifying phrase “subject to the jurisdiction thereof” as follows:

in the Brief of Citizenship Law Scholars as Amici Curiae Supporting Respondents, *Trump v. Barbara*, No. 25-365 (Feb. 18, 2026).

¹ *Trump v. Barbara*, 146 S. Ct. 2438 (2026); Exec. Order No. 14,160, 90 Fed. Reg. 8449 (Jan. 29, 2025). This article, written largely before the decision was issued, does not attempt to discuss it fully.

² See, e.g., GERALD L. NEUMAN, *STRANGERS TO THE CONSTITUTION: IMMIGRANTS, BORDERS, AND FUNDAMENTAL LAW* (1996); Gabriel J. Chin & Paul Finkelman, *Birthright Citizenship, Slave Trade Legislation, and the Origins of Federal Immigration Regulation*, 54 U.C. DAVIS L. REV. 2215 (2021); Amanda Frost, *Paradoxical Citizenship*, 65 WM. & MARY L. REV. 1177 (2024); Lucy E. Salyer, *Wong Kim Ark: The Contest Over Birthright Citizenship*, in IMMIGRATION STORIES 51 (David A. Martin & Peter H. Schuck eds., 2005); James C. Ho, *Defining “American”: Birthright Citizenship and the Original Understanding of the 14th Amendment*, 9 GREEN BAG 2D 367 (2006); Michael D. Ramsey, *Originalism and Birthright Citizenship*, 109 GEO. L.J. 405 (2020); see also *Legislation Denying Citizenship at Birth to Certain Children Born in the United States*, 19 Op. O.L.C. 340 (1995). For revisionist counterarguments, see, e.g., PETER H. SCHUCK & ROGERS M. SMITH, *CITIZENSHIP WITHOUT CONSENT: ILLEGAL ALIENS IN THE AMERICAN POLITY* (1985). A prolific opponent of birthright citizenship has been John Eastman, who received a presidential pardon for his efforts to overturn the 2020 presidential election. See, e.g., John C. Eastman, *Born in the U.S.A.? Rethinking Birthright Citizenship in the Wake of 9/11*, 42 U. RICH. L. REV. 955 (2008); Proclamation No. 10,989, 90 Fed. Reg. 51,071 (Nov. 14, 2025).

³ See *Barbara*, 146 S. Ct. 2438.

⁴ *Id.* at 2469 (Kavanaugh, J., concurring in the judgment and dissenting in part).

⁵ 169 U.S. 649 (1898).

⁶ “Jus soli” citizenship, or citizenship by right of the soil, refers to citizenship based on birth within the sovereign’s territory. *Id.* at 666–67.

⁷ *Scott v. Sandford*, 60 U.S. (19 How.) 393, 404–05 (1857).

⁸ U.S. CONST. AMEND. XIV, § 1. Obviously, the phrase about state residence does not limit the guarantee of U.S. citizenship at birth, but it additionally requires every state in which the U.S. citizen may ever reside to recognize them as also a citizen of that state.

The real object of the Fourteenth Amendment of the Constitution, in qualifying the words, “All persons born in the United States” by the addition “and subject to the jurisdiction thereof,” would appear to have been to exclude, by the fewest and fittest words, (besides children of members of the Indian tribes, standing in a peculiar relation to the National Government, unknown to the common law), the two classes of cases—children born of alien enemies in hostile occupation, and children of diplomatic representatives of a foreign State—both of which, as has already been shown, by the law of England, and by our own law, from the time of the first settlement of the English colonies in America, had been recognized exceptions to the fundamental rule of citizenship by birth within the country.⁹

The opinion then went on to explain these exceptions, and a third traditional exception for children born on a “foreign public ship,” as resting on an exemption from the jurisdiction of the sovereign.¹⁰

Although *Wong Kim Ark* gives ample reason for finding the Executive Order unconstitutional, an independent reason for its invalidation lies in its conflict with the Immigration and Nationality Act. Influenced by the long *jus soli* tradition and other twentieth-century developments, section 301 of the INA provides:

The following shall be nationals and citizens of the United States at birth:
(a) a person born in the United States, and subject to the jurisdiction thereof;
...¹¹

The same language had appeared in the Nationality Act of 1940, which the INA superseded in 1952.¹² Ample evidence also demonstrates what Congress and the Executive Branch meant by this language, both in 1940 and in 1952. Children born to foreign parents who are either temporarily present or unlawfully present are definitely not exempt from U.S. law, and they are subject to the jurisdiction of the United States.

The present article sets forth some of that evidence, particularly relating to the process of “suspension of deportation,” by which parents faced with deportation were granted permanent residence to avoid harm to their citizen children.¹³ The

⁹ 169 U.S. at 682.

¹⁰ *Id.* at 683–86.

¹¹ INA § 301(a), 8 U.S.C. § 1401(a).

¹² See Nationality Act of 1940, ch. 876, § 201, 54 Stat. 1137, 1138.

¹³ The present article derives in part from, and also updates, a December 2025 draft article that included as Appendices unpublished government documents obtained from the National Archives and from the USCIS Genealogy Program. See Gerald L. Neuman, *Lessons for Birthright Citizenship from Suspension of Deportation* (Dec. 2025) (unpublished manuscript), <https://ssrn.com/abstract=5991454> [<https://perma.cc/W3DR-EVYA>] [hereinafter *Lessons*]. Reference will sometimes be made to those documents, and the present article includes some additional documents as an Annex.

dense series of interactions between the Executive and Congress in the enactment of this process, its application, and its amendment, spanning the period from the late 1930s to the early 1950s, gave repeated expression to the broad understanding of jus soli citizenship that informed the drafting of the 1940 Nationality Act and the 1952 INA.

The article proceeds as follows. The first section introduces suspension of deportation and explains the intertwined histories of the suspension provision and the 1940 and 1952 nationality statutes. The second section identifies lessons to be learned from the operation of the suspension process between 1940 and 1952 for parents who were unlawfully or temporarily present when their child was born in the United States. The third section turns specifically to the choices Congress made in extending jus soli citizenship by statute to certain overseas territories, and to the suspension of deportation for unlawfully present parents in the U.S. Virgin Islands. The fourth section derives lessons from the fidelity to the broad jus soli rule under the pressures of the Second World War, including suspension of deportation for unlawfully present Japanese parents interned as enemy aliens.

Taken by themselves, or with other evidence of statutory meaning,¹⁴ these materials leave no doubt about the proper interpretation of the INA. Executive Order 14160 blatantly violated the statute.

I. THE FRAMEWORK FOR PREVENTING HARDSHIP TO CITIZEN CHILDREN

“Suspension of deportation” was a form of discretionary relief from deportation that was initially created by statute in 1940, and modified several times before being reconfigured in 1996 as “cancellation of removal.”¹⁵ Over a period of several years in the 1930s, immigration authorities sought authorization from Congress to temper the rigid enforcement of broad deportability grounds. The debates over entrusting the Executive with discretion to regularize status in “hardship cases” were entwined with efforts to provide individualized benefits legislatively by enacting private bills of immigration relief for a specific person or family.¹⁶ The later stages of the debate also overlapped with the congressional passage of the Nationality Act of 1940.

¹⁴ See, e.g., Brief of Members of Congress as *Amici Curiae* in Support of Respondents, *Trump v. Barbara*, No. 25-365 (Feb. 19, 2026) (explaining how the broad understanding of jus soli citizenship is necessary to the operation of other provisions of the INA).

¹⁵ The first version was enacted as part of the Alien Registration Act of 1940 (the Smith Act), ch. 439, § 20, 54 Stat. 670, 672, amended in 1942 and 1948, and then given a complex codification in the 1952 INA. For the relevant current version of cancellation of removal, see 8 U.S.C. § 1229b(b).

¹⁶ See MAE M. NGAI, IMPOSSIBLE SUBJECTS: ILLEGAL ALIENS AND THE MAKING OF MODERN AMERICA 75–89 (2004); BERNADETTE MAGUIRE, IMMIGRATION: PUBLIC LEGISLATION AND PRIVATE BILLS 20–23, 36–38 (1997); Harvey C. Mansfield, *The Legislative Veto and the Deportation of Aliens*, 1 PUB. ADMIN. REV. 281 (1941); *Lessons*, *supra* note 13, at 4–8.

For purposes of this article, the most important focus is the type of family Congress was willing to protect from deportation and the understanding of the citizenship of children in mixed-status families. In a January 1936 letter to Congress, INS Commissioner Daniel MacCormack pointed to a paradigm of hardship case in which then-current law “would send the father to one country, the mother to a second, while the children remain in the United States.” He continued:

The alien father of this family came to Canada from Ireland in 1920, and 4 years later married a Canadian girl. The couple entered the United States illegally and during their residence in this country four children have been born. With deportation proceedings pending against them, this couple faces not only separation from their children but from each other as well. Canada will not receive the father since he is a native of Ireland. The mother is a native of Canada and must be returned to that country. And they are the parents of four native-born American-citizen children who in all probability must be left behind in the United States and separated from both their parents and, in any event, must be separated from either their father or their mother.¹⁷

From examples like this, as well as more general observations, it is clear that the Executive and Congress regarded the children born to unlawfully present couples as U.S. citizens in need of protection.

Attempts in 1937 to address hardship cases through private bills demonstrated the inefficiency of that method, but Congress was also reluctant to delegate the authority, and divided on the criteria for eligibility. One self-described restrictionist argued that relief should be limited to aliens with “a wife, or a child who is an American citizen.” He added, “It must be a child born on American soil. Any child, it makes no difference who its parents are, who is born on American soil has the right to American citizenship.”¹⁸ As the efforts to delegate stalled, Congress continued to act piecemeal on private bills. For example, in the spring of 1940 Congress passed a private bill for Morris and Lena Hoppenheim and their two Canadian-born daughters, who had traveled to New York as visitors late in 1924 and had subsequently remained.¹⁹ As the committee reports observed, “A third child, born in the United States, is an American citizen.”²⁰

Congress finally reached agreement to enact the suspension of deportation provision as part of the Alien Registration Act of 1940.²¹ It amended a deportation provision, section 19 of the 1917 Immigration Act, and gave the Attorney General discretion to “suspend deportation” for eligible persons in order to prevent “serious

¹⁷ 80 Cong. Rec. 5952 (1936) (reprinting excerpts from the letter).

¹⁸ 81 Cong. Rec. 5561 (1937) (statement of Rep. Thomas Jenkins of Ohio).

¹⁹ Act of May 24, 1940, ch. 207, 54 Stat. 1267.

²⁰ S. Rep. No. 76-1462, at 2 (1940) (quoting H.R. Rep. No. 76-773 (1939)). The citizen child was born in 1927. *Id.*

²¹ Alien Registration Act § 20, 54 Stat. at 672.

economic detriment to a citizen or legally resident alien who is [their] spouse, parent, or minor child.”²² Such suspensions would be reported to Congress, and if Congress did not adopt a concurrent resolution disapproving the suspension, the Attorney General would cancel deportation and admit the individual to permanent residence.²³

To be eligible for suspension, the person had to have good moral character and not be disqualified by certain criminal or illegal acts or other disfavored characteristics such as subversive activity or mental or physical deficiency.²⁴ The 1940 version also precluded suspension for noncitizens who were “racially inadmissible or ineligible to naturalization,” most prominently Asians; this element was repealed in 1948.²⁵ It should be emphasized that even if all the standards were met, relief remained in the discretion of the Attorney General and potentially of Congress.

Meanwhile, Congress was considering the proposed codification of the nationality laws, jointly drafted by the State, Justice, and Labor Departments.²⁶ Congress received the draft code with commentary in 1938, and the House Immigration Committee held extensive hearings from January to June of 1940. These hearings prepared the way for passage of the Nationality Act in October 1940.²⁷ The 1938 executive commentary on section 201(a), the predecessor of INA section 301(a), recalled the Supreme Court’s exposition of the meaning of “subject to the jurisdiction thereof” in *Wong Kim Ark*, as excluding only certain limited classes of children, and observed that *jus soli* citizenship applied equally to children born to parents residing temporarily.²⁸ “In other words, it is the fact of birth within the territory and jurisdiction, and not the domicile of the parents, which determines the nationality of the child.”²⁹ The commentary on sections 201(a) and 201(e) discussed the differentiation between incorporated and unincorporated territories in relation to citizenship and the statutory extension of *jus soli* citizenship to the Virgin

²² *Id.* The statute named the Attorney General as the recipient of the delegation. Authority was later subdelegated within the Justice Department, to the Board of Immigration Appeals (BIA) or the Immigration and Naturalization Service (INS).

²³ A successor version of this provision was the one-house legislative veto famously invalidated by the Supreme Court in *INS v. Chadha*, 462 U.S. 919 (1983), for violating the requirements of bicameralism and presentment. Nonetheless, the decade of executive and congressional practice that formed the context for the drafting of the 1952 INA remains important for the interpretation of the INA, despite what a later Supreme Court might have thought of the procedures employed.

²⁴ See Alien Registration Act § 20 (adding sections 19(c) and 19(d) to 1917 Immigration Act).

²⁵ Alien Registration Act § 20 (adding section 19(c)).

²⁶ See Nationality Laws of the United States: Message from the President of the United States Transmitting a Report Proposing a Revision and Codification of the Nationality Laws, H.R. Comm. Print, Part I, at v (1939). The Department of Labor was the home of the INS until May 1940, when it was transferred to the Department of Justice.

²⁷ See *id.*; see also *To revise and codify the nationality laws of the United States into a comprehensive nationality code: Hearings before the H. Comm. on Immigr. & Naturalization*, 76th Cong. (1945) (later publication of 1940 hearings); Nationality Act of 1940, 54 Stat. at 1137.

²⁸ See Nationality Laws of the United States, *supra* note 26, at 7.

²⁹ *Id.*

Islands and Puerto Rico.³⁰ Congress enacted section 201(a) in the form in which it had been proposed.

After several years of experience with the suspension of deportation process, Congress expanded eligibility for suspension in 1948, and modified the review procedure.³¹ First, it repealed the racial criterion. The legislative history specifically refers to the desirability of extending eligibility to former treaty traders³² whose status had lapsed due to the abrogation of the U.S.-Japan commercial treaty in the lead-up to the war; “[i]n many, if not the majority, of the cases these persons had their wives with them and United States citizen-children have been born to them.”³³ Second, Congress made it possible for some noncitizens to be granted suspension based on the hardship that deportation would cause to themselves rather than to a family member.³⁴ Third, Congress made its affirmative approval of suspension decisions necessary: instead of requiring a concurrent resolution to disapprove the Justice Department’s recommended grant, it now required a concurrent resolution to give the Justice Department’s recommendation effect. This procedural change produced more frequent interactions between Congress and the Justice Department on suspension issues and influenced the Executive’s exercise of discretion.³⁵

While Congress moved toward the recodification of the immigration and nationality laws in the 1952 INA, it received testimony on the operation of the suspension process. A section on suspension in the 1950 Senate study report on the immigration and naturalization systems recounted some concerns about efforts to take advantage of the suspension provision by large families that entered without inspection to have another child, by couples admitted temporarily in transit who overstayed to have a child, and by illegally present aliens who married an illegally present spouse and then had a child.³⁶ The solution proposed for these problems was to increase the level of hardship required for the parents to be eligible for suspension—the report fully accepted that the U.S.-born children were citizens.³⁷

As actually adopted in June 1952, the INA replaced the 1948 suspension provision prospectively with a complex rule listing four subdivisions of cases and a transitional rule for new applications by prior entrants, while preserving the 1948

³⁰ *See id.* at 7–8, 11–13.

³¹ Act of July 1, 1948, ch. 783, 62 Stat. 1206.

³² As discussed *infra* Part IV, “treaty traders” were noncitizens temporarily admitted for the purpose of conducting international trade in accordance with a bilateral treaty between the United States and the individual’s home country.

³³ H.R. Rep. No. 80-647, at 2–3 (1947).

³⁴ Act of July 1, 1948, 62 Stat. at 1206 (adding section 19(c)(2)). This separate branch of eligibility required the noncitizen to accrue seven years of continuous residence and to be residing in the United States on July 1, 1948.

³⁵ *See, e.g.,* In re W—, 4 I. & N. Dec. 64, 70 (B.I.A. 1950) (describing adaptation of discretionary policy to congressional disapprovals).

³⁶ S. Rep. No. 81-1515, at 600–01 (1950).

³⁷ *Id.* at 609–11.

version for already pending cases.³⁸ The prospective rules raised the level of hardship required for eligibility and disqualified recent entrants even in cases where the hardship would result to a citizen spouse, parent, or child. The main relevant point, however, is that hardship to a citizen child of unlawfully present or temporarily admitted parents continued to be an important factor, based on the same understanding of *jus soli* citizenship that had previously been employed.

Looking over the changes to the criteria and procedures for suspension of deportation, and the debates regarding them, it is clear that Congress was aware of the incentives that the availability of relief might create for circumvention of immigration restrictions, whether by unlawful entry or by overstaying a temporary admission. Congress repeatedly modified the techniques that were used to strike a balance between prevention of hardship to U.S. family members and achievement of other policy goals. Throughout this period, Congress made clear that citizenship of a child was an important factor for granting a parent relief. The various adjustments reflected the consistent understanding of administrators and legislators that a child born in the United States to unlawfully present or temporarily present parents was a U.S. citizen.

II. LESSONS FROM THE PRACTICE OF SUSPENDING DEPORTATION

The initial 1940 version of the suspension of deportation statute required publication of the reports to Congress on suspensions, which produced a convenient source of information on the first few years. A 1942 amendment, however, repealed the publication requirement;³⁹ this change has made the documentation on individual cases much harder for later researchers to find. Starting in 1949, the concurrent resolutions of approval provide lists of names, without further description of the cases. For some of these cases, the individual INS files can be obtained from the National Archives or by a slower process of inquiry from the Department of Homeland Security, and include the executive suspension decisions.⁴⁰ Statistical reports indicate that there were a few thousand suspensions per year from 1943 to 1948,⁴¹ 900 approved grants in 1949, and a few thousand approved grants per year from 1950 to 1952.⁴² The approval rate for 1949 to 1952 in the aggregate was about seventy percent.⁴³ This multiply repeated expression by Congress and the Executive acting jointly demonstrates strongly their shared understanding that children born to parents who were present temporarily or

³⁸ See INA, ch. 477, § 244(a), 66 Stat. 163, 214 (1952) (suspension provision); *id.* § 405(a), 66 Stat. at 280 (savings provision). For further details, see *Lessons*, *supra* note 13, at 11–12.

³⁹ Act of Dec. 8, 1942, ch. 697, 56 Stat. 1044.

⁴⁰ I am very grateful to the archivists who provided the unpublished files discussed in this article.

⁴¹ See S. Rep. No. 81-1515, at 599 (for 1943–1948).

⁴² See INS, Annual Report for the Fiscal Year Ended June 30, 1949, at 18 (1950) (for FY1949); INS, Annual Report for the Fiscal Year Ended June 30, 1953, ch. 4 (1954) (for FY1950–1952).

⁴³ Author's calculation from the statistics in the preceding footnote.

unlawfully acquired U.S. citizenship by *jus soli*. It further confirms the proper interpretation of section 301(a) of the INA.

The reports submitted to Congress and published in the first few years of suspension describe various examples of unlawfully present couples with U.S.-born children recognized as citizens. Some of the parents entered without inspection at the border with Canada or Mexico, or came as stowaways and escaped detection at ports.⁴⁴ Others overstayed after entering as visitors or deserting from shore leave as a member of a ship's crew.⁴⁵ The descriptions are not always precise about the timing of a citizen child's birth, making it more difficult to say whether the parents were still within a temporary admittance or overstaying on that day.⁴⁶ Given that the child would be a citizen in either case, the writers may have seen no need to specify.

Similar examples can be found with more effort from the lists published after 1948 by which Congress approved recommendations for suspension.⁴⁷ The lists from 1949 to 1952 also include couples who had citizen children while they were lawfully admitted on a temporary basis that later expired.⁴⁸ These examples further confirm the shared understanding of Congress and the Executive regarding the broad scope of birthright citizenship as already codified in the 1940 Act and in the lead-up to the 1952 INA.

An application for suspension under the 1948 Act, involving a married pair of crewmembers who deserted their vessel while one was pregnant, gave rise to the

⁴⁴ See, e.g., Facts and Pertinent Provisions of Law in Cases of Certain Aliens, H.R. Doc. No. 77-47, at 24–25 (1941) [hereinafter 1941 AG Suspension Report] (Jan and Mary Zarycki, who entered unlawfully near Niagara Falls); Facts and Pertinent Provisions of Law in Cases of Certain Aliens, H.R. Doc. No. 77-541, at 59 (1942) [hereinafter 1942 AG Suspension Report] (Trinidad Lopez and Petra Gonzalez de Lopez, who crossed the Rio Grande in a skiff); Facts in Cases of Certain Alien Deportations, H.R. Doc. No. 78-92, at 51–52 (1943) [hereinafter 1943 First AG Suspension Report] (Haralambos and Efter[pi] Sklavos, stowaways on a ship from France); Aliens Whose Deportation Has Been Suspended for More than 6 Months, H.R. Doc. No. 78-144, at 12, 20 (1943) [hereinafter 1943 Second AG Suspension Report] (Stanislav and Marija Andrycich, smuggled separately from Canada). For more discussion and examples, see *Lessons*, *supra* note 13, at 15–16.

⁴⁵ See, e.g., 1942 AG Suspension Report, *supra* note 44, at 513–15 (Francesco and Adelina Verna, admitted as visitors for two weeks); 1941 AG Suspension Report, *supra* note 44, at 121–22 (Bianca Binetti, who deserted her ship and joined her husband, who had entered unlawfully by an unspecified method). For more discussion and examples, see *Lessons*, *supra* note 13, at 18–19.

⁴⁶ See, e.g., *Lessons*, *supra* note 13, at 25 (Edith Nyeki Varsa); *id.* at 27 (George and Johanna Schuettler).

⁴⁷ See, e.g., S. Con. Res. 25, 81st Cong., 63 Stat. 1229 (1949) (listing Antony and Josephine Vassura) (stowaways); *Lessons*, *supra* note 13, at 17; S. Con. Res. 36, 81st Cong., 64 Stat. A285 (1950) (listing Jacob and Barbara Szedula) (smuggled by motorboat near Niagara Falls); *Lessons*, *supra* note 13, at 17; S. Con. Res. 91, 81st Cong., 64 Stat. A338 (1950) (listing Mariongoula Tsolainos) (overstaying visitor married to overstaying former diplomat); *Lessons*, *supra* note 13, at 19.

⁴⁸ See, e.g., S. Con. Res. 51, 81st Cong., 64 Stat. A301 (1950) (listing Iu Chan Watt and Moi Kwi Yuk Chan Watt) (visitors); *Lessons*, *supra* note 13, at 28–29; S. Con. Res. 85, 81st Cong., 64 Stat. A349 (1950) (listing Kunio and Yukii Yoda) (treaty trader and spouse); *Lessons*, *supra* note 13, at 26. The Watt files clarify that the temporary admission of both spouses as visitors was for temporary employment. For more examples, see *Lessons*, *supra* note 13, at 23–30.

Supreme Court’s decision in *United States ex rel. Hintopoulos v. Shaughnessy* (1957).⁴⁹ The BIA had found them eligible for suspension but denied them a favorable exercise of discretion, and the couple challenged the denial. Justice Harlan observed for the majority, “In November 1951 their child was born; the child is, of course, an American citizen by birth.”⁵⁰ The dissent agreed, and would have found the denial of suspension arbitrary, but the majority upheld the agency’s consideration of congressional preferences on suspension policy as reasonable, emphasizing that the statute “provide[d] for close congressional supervision over suspensions of deportation.”⁵¹ Subsequently, after renewed consideration, the agency did recommend suspension, and Congress then approved it.⁵²

III. LESSONS FROM THE OVERSEAS TERRITORIES

The government’s brief in *Trump v. Barbara* attempted to set aside INA section 301(a) and section 201(a) of the 1940 Nationality Act as having no independent significance, treating them as just placeholders to include the *jus soli* rule of the Fourteenth Amendment in the codification of nationality law, so that Congress’s understanding of what they meant does not matter.⁵³ This dismissal distorts the content and role of the statutory provisions. Among other purposes, they define and differentiate the geographical scope of birthright citizenship.

First of all, it is important that section 201 of the 1940 Act begins, “The following shall be nationals and citizens of the United States at birth:” invoking the concentric statuses of citizenship and (more broadly) nationality. Given the statutory extension of citizenship to members of Indian Tribes, the purpose of this distinction since 1940 has been to differentiate the status acquired in certain overseas territories. Under the doctrine of the *Insular Cases*,⁵⁴ it was understood that Congress had discretion whether to extend a statutory rule of *jus soli* citizenship to an “unincorporated territory” or to enact its own chosen rules, including variations particular to the situation of the territory, instead. Congress’s choices in 1940 were reflected in the selective definition of “United States” in section 101(d),⁵⁵ as well as in separate sub-provisions of section 201 and in sections 202

⁴⁹ 353 U.S. 72 (1957); see *Lessons*, *supra* note 13, at 21–23.

⁵⁰ 353 U.S. at 73.

⁵¹ *Id.* at 78–79.

⁵² See S. Con. Res. 21, 86th Cong., 73 Stat. B11 (1959).

⁵³ Brief for Petitioners at 44–45, *Trump v. Barbara*, No. 25-365 (Jan. 20, 2026). So did Justice Thomas’s dissenting opinion. *Barbara*, 146 S. Ct. at 2522–23 (Thomas, J., dissenting).

⁵⁴ In referring to the *Insular Cases*, I do not mean to take a position in favor of their doctrine or to approve of their origins. See, e.g., NEUMAN, STRANGERS TO THE CONSTITUTION, *supra* note 2, at 83–89. Historically speaking, they formed part of the legal background of the 1940 Nationality Act and the 1952 INA, and it is impossible to make sense of the nationality rules of those statutes without noticing that background.

⁵⁵ The definition included the (forty-eight) states, the District of Columbia, the incorporated territories of Alaska and Hawaii, and the unincorporated territories of Puerto Rico and the Virgin Islands. This left out American Samoa, Guam, the Philippines, and various island possessions without permanent populations.

through 205.⁵⁶ The 1952 INA maintained this dual structure, though with a slightly broader definition of “United States.”⁵⁷

Congress had already extended *jus soli* citizenship to the U.S. Virgin Islands in 1927, prospectively, with more complex rules for persons born or residing in the islands prior to their acquisition from Denmark in 1917 and for persons born between 1917 and 1927. Congress chose to reenact the prospective policy by including the Virgin Islands in section 201(a) of the 1940 Act, and later in section 301(a) of the INA, and it also codified the rules for persons born before 1927 in the INA.⁵⁸

Although Puerto Rico and Guam had been acquired in 1899, Puerto Rico first received a full prospective grant of *jus soli* citizenship in the 1940 Act, and Guam in its belated Organic Act of 1950, followed by the INA. Congress had made more limited grants of U.S. citizenship to Puerto Rico starting in 1917, and section 202 of the 1940 Act restricted its grant of birthright citizenship for persons born in Puerto Rico between 1899 and 1940 to those who were currently residing in Puerto Rico or “other territory over which the United States exercises rights of sovereignty.”⁵⁹ In 1952, Congress restated these limitations in INA section 302, as well as repeating the general prospective grant in section 301(a). Thus, Congress demonstrated both its ability to extend *jus soli* citizenship to an unincorporated territory and its ability to qualify that extension as a matter of policy. Similarly, Congress made a prospective grant of *jus soli* citizenship for Guam in the 1950 Organic Act and the 1952 INA, but limited the grant for those born between 1899 and 1950 to persons who had “taken no affirmative steps to preserve or acquire foreign nationality.”⁶⁰ That qualification presumably reflects recent local history—Guam had been occupied by Japan during the Second World War.

The uneven and deliberate extension of citizenship to unincorporated territories shows the active application by Congress of the broad grant to children born subject to the jurisdiction of the United States, not the passive acceptance of a *fait accompli*. And in the case of the Virgin Islands, by 1952 Congress had experienced the realities of unauthorized labor migration in its suspension of deportation practice.

Migration from the British Virgin Islands (BVI) to the U.S. Virgin Islands (USVI) reflected the very short distance between them, economic and familial interdependence, and fluctuating labor demand on the U.S. side, as well as a history

⁵⁶ See Nationality Act of 1940 §§ 201(e), 202 (transition rule for Puerto Rico), 203(a) (on birth in the [Panama] Canal Zone), 204(a), (c) (on outlying possessions), 205 (on birth out of wedlock).

⁵⁷ See INA § 101(a)(38), 8 U.S.C. § 1101(a)(38). Congress added Guam to the list in the 1952 INA, and more recently added the Commonwealth of the Northern Mariana Islands, after it had become part of the United States. Under current law, the only overseas territory where birth confers U.S. nationality rather than citizenship is American Samoa (including Swain’s Island). See INA § 101(a)(29), 8 U.S.C. § 1101(a)(29) (defining “outlying possessions of the United States”).

⁵⁸ See INA § 306, 8 U.S.C. § 1406.

⁵⁹ Nationality Act of 1940, § 202, 54 Stat. at 1139.

⁶⁰ Organic Act of Guam, ch. 512 § 4, 64 Stat. 384, 384–85 (1950) (adding § 206 to 1940 Nationality Act).

of free migration during the period of Danish rule.⁶¹ For such a small population, there were surprisingly many grants of suspension in the period from 1949 onward, sometimes for unauthorized residents married to a citizen or LPR, but also for unlawfully present couples with children who were U.S. citizens by birth in the USVI, often in St. Thomas—the economically central island.

Take the example of Wilmoth and Mera Lettsome, both born in 1923 in Tortola, the main island of the BVI. According to the INS decision of April 1951,⁶² both had resided “at intervals” in the USVI: he starting in 1936, and she starting in 1940. Wilmoth Lettsome was admitted temporarily from Tortola in July 1939 and had remained ever since; Mera Lettsome was last admitted for a temporary visit from Tortola in October 1948. They had both entered the United States unlawfully, intending to remain. The couple were married in St. Thomas in January 1945, and had children born there in 1945, 1946, and 1948. Given their limited assets, their modest earnings in the USVI, the difficulty of finding work in Tortola, and the better opportunity for education of their children in St. Thomas, the INS found it clear that the deportation of the parents “would result in a serious economic detriment to their three United States citizen children.” Finding them both eligible in other respects, it suspended their deportation subject to the approval of Congress, which followed in a concurrent resolution in August 1951.⁶³

Or consider another Tortola couple, Carlo Emanuel Woods and Diana Woods, both British subjects (although her place of birth was in the Dominican Republic). They were each admitted temporarily in St. Thomas, in October 1944 and March 1945 respectively, but intended to remain permanently, and they did.⁶⁴ They married in September 1945 and thereafter had “four native-born United States citizen children” together. To avoid serious economic detriment to these citizen children, the INS suspended deportation of each parent in 1951, and Congress approved by concurrent resolution in April 1952.⁶⁵

In the early 1950s, the need for suspensions arose not only as individual applications, but as a broader policy discussion between British officials, the State Department, the INS, and Congress.⁶⁶ From 1951 to 1952, Congress rejected nearly 100 suspension recommendations for family members from the BVI, apparently on the discretionary consideration that they should travel home for consular visas instead. This evaluation neglected the fact that there was no U.S. consulate in the

⁶¹ See S. Rep. No. 81-1515, at 662–63; *Lessons*, *supra* note 13, at 36–38.

⁶² See Annex at 95–98. This previously unpublished decision was obtained from the USCIS archives and is reproduced here. For other examples, see *Lessons*, *supra* note 13, at 38–43 & Appendices. The Lettsome decision arrived from the archives too late for inclusion in *Lessons*.

⁶³ S. Con. Res. 40, 82d Cong., 65 Stat. B78 (Aug. 21, 1951).

⁶⁴ See Annex at 95, 99–102. The previously unpublished decisions on their suspensions also arrived from the USCIS archives too late for inclusion in *Lessons*.

⁶⁵ S. Con. Res. 63, 82d Cong., 66 Stat. B25 (Apr. 9, 1952).

⁶⁶ Documentation and fuller explanation can be found in *Lessons*, *supra* note 13, at 40–43, and its Appendices. The documentation also includes the specific case of Isabelita Chinnery, mother of three citizen children, recommended for suspension in 1951 and approved in 1954 after resubmission.

BVI—rather, the consulate for the British West Indies was in Barbados, hundreds of miles away, which would pose major financial and logistical problems for low-wage workers. With time, the INS and the congressional committees worked out arrangements to resubmit rejected suspension recommendations for unlawfully present couples with citizen children, treating them as still the same case for approval under the 1948 version of the suspension statute.

Thus, the suspension cases from the Virgin Islands demonstrate the intent of Congress to extend U.S. citizenship to children born subject to the jurisdiction of the United States in an unincorporated territory, and Congress's recognition of children born to unlawfully present parents as covered by that rule. Congress accepted such children born before 1952 as citizens, and Congress intended for section 301(a) of the INA to guarantee citizenship to such children born thereafter.

IV. LESSONS FROM THE JAPANESE INTERNMENT

Several briefs favoring the Executive Order argued that the Citizenship Clause requires “allegiance,” although that word does not appear in its text, and some then twisted “allegiance” into their own enhanced conceptions of “primary allegiance,”⁶⁷ “total allegiance,”⁶⁸ “exclusive allegiance,”⁶⁹ “citizenlike allegiance,”⁷⁰ or “complete political allegiance.”⁷¹ Some of these briefs pretended that their arguments were consistent with *Wong Kim Ark*, although they actually followed the arguments of the losing side,⁷² and others openly asserted or suggested that *Wong Kim Ark* was wrongly decided.⁷³

As the Supreme Court explained in *Wong Kim Ark*, the common law rule received by the United States from England regarded “allegiance” as something owed by a child to the sovereign whose governance had given it protection at the time of its birth.⁷⁴ It was not a subjective attitude of loyalty but a duty of obedience, and it was not inconsistent with owing a similar duty to the sovereign of the child's parents if they were aliens. This is the conception of allegiance in relation to birthright citizenship received by the United States from England,⁷⁵ and the

⁶⁷ Brief for Petitioners, *supra* note 53, at 13, 16.

⁶⁸ Brief of U.S. Senator Ted Cruz et al. as Amici Curiae in Support of Petitioners at 32, *Trump v. Barbara*, No. 25-365 (Jan. 28, 2026).

⁶⁹ Brief of Former United States Attorney General Edwin Meese III as Amicus Curiae in Support of Petitioners at 20, *Trump v. Barbara*, No. 25-365 (Jan. 27, 2026).

⁷⁰ Brief of Kirkwood Institute et al. at 5–6, *Trump v. Barbara*, No. 25-365 (Jan. 27, 2026).

⁷¹ Brief of Amicus Curiae the Claremont Institute's Center for Constitutional Jurisprudence in Support of Petitioners at 23–27, *Trump v. Barbara*, No. 25-365 (Jan. 27, 2026) (signed by John C. Eastman).

⁷² *Id.* at 3; Brief of Edwin Meese, *supra* note 69, at 14–15.

⁷³ Brief of Richard A. Epstein in Support of Petitioners at 4–5, *Trump v. Barbara*, No. 25-365 (Jan. 27, 2026); Brief of Ted Cruz, *supra* note 68, at 20 (“One need not decide whether *Wong Kim Ark* was fully correct on that score . . .”).

⁷⁴ 169 U.S. at 655–58.

⁷⁵ *Id.* at 658.

Fourteenth Amendment was designed to preserve it on a race-neutral basis, not to overthrow it.⁷⁶

Among the amicus briefs opposing the Executive Order, Professor Gerard Magliocca's brief called attention to the example of foreign "gypsies" and their U.S.-born children, which figured in the legislative history of the Citizenship Clause. He argued that it refutes the notion that actual allegiance of the parents is required for the children to be citizens.⁷⁷

In twentieth-century practice, another rebuttal of the enhanced allegiance theories comes from the internment of Japanese noncitizens during the Second World War. Professor Eric L. Muller, an expert on the Japanese internment, filed an amicus brief concentrating on this subject, emphasizing that the children born to parents interned as enemy aliens were recognized as U.S. citizens.⁷⁸ From my own perspective, the most telling examples involve former "treaty traders" who had remained in the United States after their nonimmigrant status expired, and the Japanese Peruvians who were brought to the United States temporarily for internment and possible prisoner exchange.

Treaty traders were (and still are) a category of nonimmigrants authorized to enter the United States for purposes of trade under bilateral commercial treaties.⁷⁹ The lawful status of the traders and their accompanying family members depends on their ongoing engagement in trade and the continuation of the treaty. Treaty traders from Japan therefore lost their legal basis for remaining in 1940, when the United States abrogated its commercial treaty with Japan in response to Japanese military atrocities in China.⁸⁰

After actual war began between the United States and Japan in December 1941, the former treaty traders additionally became enemy aliens vulnerable to war-related internment and subsequent expulsion. Nonetheless, children born to them in internment, like the children born to treaty traders before the war, were U.S. citizens. As one illustration, in 1948, Congress enacted a private bill granting permanent residence to the former treaty trader Gentaro Takahashi, father of six citizen children, one of whom was born in June 1943 while he and his family were interned at the Minidoka camp at Hunt, Idaho; all six children were recognized as U.S. citizens in, for example, a 1944 camp document and the congressional

⁷⁶ *Id.* at 676.

⁷⁷ Brief of Gerard N. Magliocca as Amicus Curiae in Support of Respondents at 2–8, *Trump v. Barbara*, No. 25-365 (Feb. 3, 2026). See also Ann Ostendorf, *Racializing American "Egyptians": Shifting Legal Discourse, 1690s–1860s*, 2 *CRITICAL ROMANI STUD.* 42, 54–57 (2019); *Gypsies in Brooklyn*, N.Y. TIMES, Dec. 8, 1867, at 8.

⁷⁸ Amicus Curiae Brief of Professor Eric L. Muller in Support of Respondents, *Trump v. Barbara*, No. 25-365 (Feb. 26, 2026).

⁷⁹ See Immigration Act of 1924, ch. 190, § 3(6), 43 Stat. 153, 154–55; 8 U.S.C. § 1101(a)(15)(E).

⁸⁰ See W.H.M., *Economic Warfare with Japan or a New Treaty?*, 18 *FOREIGN AFF.* 366 (1940). The United States gave notice of termination of the treaty on July 26, 1939, with effect six months later in January 1940.

committee reports on the bill.⁸¹ For another, in 1950 Congress approved suspension of deportation for the former treaty trader Kunio Yoda and his wife Yukii Yoda, based on the serious economic detriment to their “three native-born citizen children, ages ten, nine, and four years.” The chronology makes clear that their youngest citizen child was born while the parents were unlawfully present enemy aliens, and Yukii Yoda’s file shows that the child was born in January 1945 while they were interned in the Topaz camp in Utah.⁸²

The Japanese Peruvians were Japanese residents or citizens of Peru brought involuntarily, in some cases with their families, to the United States within a wider wartime policy of transporting Axis nationals out of Latin America for internment as enemy aliens.⁸³ The U.S. government officially categorized them as unlawfully present without documentation required by the immigration laws at the time. A distinctive problem arose after the war, when Peru refused to take most of the Japanese Peruvians back. As this situation persisted, one partial solution involved suspension of deportation⁸⁴ for families that had given birth to children while detained in the internment camp in Crystal City, Texas, or while subsequently paroled pending repatriation. Despite the parents’ being considered unlawfully present, temporarily present, and enemy aliens, their U.S.-born children were citizens by birth, and deportation could be suspended to avoid serious economic detriment to a citizen child. For example, in 1951, Congress approved suspension of deportation for the parents of Seiki Murono, born in 1944 in Crystal City.⁸⁵ The 1952 suspension decision for Harukichi (Jose) and Oyobu (Rosa) Watanabe states explicitly, “they are the parents of a minor child who was born to them on January 16, 1946 at Crystal City, Texas. This child is a citizen of the United States by birth and is completely dependent upon the respondents for support.” Jose Watanabe’s immigration file also includes an Alien Enemy report form listing his daughter’s nationality as “Japanese-American.”⁸⁶

⁸¹ See Act of Apr. 27, 1948, ch. 233, 62 Stat. 1340; H.R. Rep. No. 80-1698, at 2 (1948); S. Rep. No. 80-996, at 2 (1948); Letter from Minidoka Project Director Harry L. Stafford to R.J. Norene, INS (Aug. 17, 1944), <https://ddr.densho.org/ddr-densho-355-236/?format=doc> [<https://perma.cc/SD57-EEPF>].

⁸² See *Lessons*, *supra* note 13, at 26 & Appendix 1(9).

⁸³ See C. HARVEY GARDINER, *PAWNS IN A TRIANGLE OF HATE: THE PERUVIAN JAPANESE AND THE UNITED STATES* (1981); Natsu Taylor Saito, *Justice Held Hostage: U.S. Disregard for International Law in the World War II Internment of Japanese Peruvians—A Case Study*, 40 B.C. L. REV. 275 (1998); JOHN E. SCHMITZ, *ENEMIES AMONG US: THE RELOCATION, INTERNMENT, AND REPATRIATION OF GERMAN, ITALIAN, AND JAPANESE AMERICANS DURING THE SECOND WORLD WAR* (2021); *Lessons*, *supra* note 13, at 30–35.

⁸⁴ Suspension of deportation became an option for them starting in 1948, when Congress eliminated race as an eligibility factor.

⁸⁵ See S. Con. Res. 15, 82d Cong., 65 Stat. B62 (1951) (Ginzo and Hisako Murono); *Lessons*, *supra* note 13, at 33.

⁸⁶ See *Lessons*, *supra* note 13, at 34–35 & Appendix 1(16). Further similar examples are discussed in *Lessons*.

Muller’s brief discusses the case of Terry (Teruhiko) Maoki, born on July 23, 1945, at Crystal City, joining his parents and their Peruvian-born children.⁸⁷ The immigration file of his father, Usaburo (Victor) Maoki, contains a Crystal City camp report of Terry’s birth and reception to the central alien enemy authorities, listing his nationality as “Japanese(American).”⁸⁸ Terry’s older sister wrote a memoir that recounts their internment and life in the camp.⁸⁹ It documents how the order to deport her and her parents to Japan was reopened after Congress repealed the racial ineligibility for suspension of deportation.⁹⁰ Muller’s brief sketches Terry’s later life and career as a native-born citizen in California. The brief concludes that the many examples like Terry Maoki are incompatible with claims that the citizenship of a child born in the United States depends on the “primary allegiance” or loyalty of the parents.⁹¹

The Japanese Peruvian cases are particularly striking examples of the strength of the *jus soli* rule of the 1940 Nationality Act and its carryover into the 1952 Immigration and Nationality Act. The only reason why the Japanese Peruvians were in the United States was for temporary wartime internment with the design of repatriation to Japan or Peru. Still, the babies born to these deportable parents were subject to the jurisdiction of the United States and were recognized as citizens.

CONCLUSION

The history of suspension of deportation vividly demonstrates the shared understanding of Congress and the Executive that the temporary lawful status or unlawful status of parents was no obstacle to the citizenship of children born to them in the United States, under the 1940 Nationality Act or the 1952 INA. Distorted notions of allegiance and domicile cannot undermine the well-settled rule that such children are “subject to the jurisdiction” of the United States within the meaning of the INA.

While the Executive Order was also unconstitutional because it conflicted with the Citizenship Clause of the Fourteenth Amendment, there was an independent statutory basis for invalidating the order. The President has no authority to repeal the INA or the grant of citizenship that it contains.

An Epilogue: Several weeks after the Supreme Court decided *Trump v. Barbara*, a new Executive Order appeared, attempting once more to abolish birthright citizenship, though for a narrower category of children. Executive Order

⁸⁷ Brief of Eric L. Muller, *supra* note 78, at 16–19.

⁸⁸ Report of Alien Enemy, July 24, 1945, *see* Annex at 95, 103.

⁸⁹ *See* LIBIA HIDEKO MAOKI YAMAMOTO, DETOUR TO CRYSTAL CITY: MEMORIES OF A JAPANESE LATIN AMERICAN WORLD WAR II INTERNMENT SURVIVOR (2025).

⁹⁰ *Id.* at 189–90 (reprinting 1949 BIA order). The order, of course, related to the parents and the three Peruvian-born children.

⁹¹ Brief of Eric L. Muller, *supra* note 78, at 21.

No. 14418, “Continuing to Protect the Meaning and Value of American Citizenship,”⁹² essentially treated the Supreme Court decision as allowing the President—unilaterally—to invent new legal fictions that would multiply the exceptions to birthright citizenship beyond their actual scope and rationale, based on activities of one or both parents. The new targets involved parents deemed to be “alien enemies,” a wide class of parents employed by foreign governments or international organizations, and a vaguely described class of parents engaging in “birth tourism,” in fraudulent activity to obtain citizenship, or in birth surrogacy.⁹³

This second Executive Order is unconstitutional for the same reasons as the first Executive Order, and it similarly violates the INA. Among other evidence, the practice of suspension of deportation discussed in this article confirms that alien enemy status of the parents was no bar to the citizenship of a U.S.-born child; that entry with intent to give birth in the United States was no bar to citizenship of the child; and that Congress responded to parental misconduct by limiting the parents’ eligibility for relief, not by denying the rights of the children. Other examples could be given involving entry by fraud, or children born to non-immune foreign government employees.⁹⁴ In the Supreme Court’s *Hintopoulos* decision, the mother entered pregnant and overstayed to give birth, and the father deserted the ship to join her. The inconsistency of the new Executive Order with the statute is abundantly clear.

A district court issued the first preliminary injunction against implementation of this Executive Order on September 2, 2026.⁹⁵ The court relied squarely on the Supreme Court’s constitutional holding on behalf of the class in *Barbara*.⁹⁶ Procedural challenges may follow, and it is uncertain at this writing how long the Supreme Court will leave it to the lower courts to vindicate the rights it has so recently affirmed.

⁹² Exec. Order No. 14,418, 91 Fed. Reg. 51,991 (Aug. 11, 2026). The very name signals its defiance of the Supreme Court and its insistence on the propriety of the previous Executive Order.

⁹³ *Id.* § 2. There is also a provision regarding children born in “territory or territorial waters of the United States where citizenship is not conferred by Federal statute.” Its purpose is not clear, and it seems to bear no relation to the other provisions of § 2, or to the policy announced in § 1.

⁹⁴ See, e.g., *Lessons*, *supra* note 13, at 21 (Thoralf and Hilda Gulliksen); *id.* at 17–18 (Hyman and Sarah Falkowitz, Milo and Bertha Marcovici); *id.* at 39 (Dorothy and Joseph Todman); *id.* at 29–30 (Ts An Soong).

⁹⁵ *CASA, Inc. v. Trump*, No. 8:25-cv-00201, 2026 WL 2592706 (D. Md. Sept. 2, 2026). The preliminary injunction does not apply to § 2(d) of the Executive Order, see *supra* note 93, which was not challenged because it was not relevant to the class previously certified. *Id.* at *11 n.5.

⁹⁶ *Id.* at *27.

ANNEX

1. Executive Suspension of Deportation Decision for Wilmoth Carigon Lettsome and Mera Celestina Lettsome (1951)

From the C-file of Mera Celestina Lettsome (A7083207)

This is a reproduction of pages from the consolidated C-file (consolidating alien registration files and naturalization files), made available to the author by the USCIS Genealogy Program in Lee's Summit, Missouri.

2. Executive Suspension of Deportation Decision for Carlo Emanuel Woods (1951)

From the C-file of Carlo Emanuel Woods (A4769465)

This is a reproduction of pages from the consolidated C-file (consolidating alien registration files and naturalization files), made available to the author by the USCIS Genealogy Program in Lee's Summit, Missouri.

3. Executive Suspension of Deportation Decision for Diana Woods (1951)

From the C-file of Diana Woods (A6057673)

This is a reproduction of pages from the consolidated C-file (consolidating alien registration files and naturalization files), made available to the author by the USCIS Genealogy Program in Lee's Summit, Missouri.

4. Report of Alien Enemy, July 24, 1945, re birth of Terry (Teruhiko) Maoki

From the A-file of Usaburo (Victor) Maoki

Records Copied at the National Archives at San Francisco

Record Group 566, Records of the U.S. Citizenship and Immigration Services. Department of Justice. Immigration and Naturalization Service.

Alien Case Files, 1944–2003

National Archives Identifier: 40292361

Alien Case File for Usaburo Maoki (A6143981)

ANNEX 1. EXECUTIVE SUSPENSION OF DEPORTATION DECISION FOR WILMOTH
CARIGON LETTSOME AND MERA CELESTINA LETTSOME (1951)

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

APR 23 1951

Files: A-7189111 - Miami - (0616-1576) (No Appeal)
A-7083207 - Miami - (0616-1526)

In re: WILMOTH CARIGON LETTSOME and wife, MERA CELESTINA LETTSOME

IN DEPORTATION PROCEEDINGS 00030350 Docketed

IN BEHALF OF RESPONDENTS: No one Referred to Congress: 511 1951

CHARGES: FILE
By: *[Signature]*

Warrant: Act of 1924 - No immigration visa (male respondent)
Act of 1924 - Remained longer - Visitor (female only)

Lodged: Act of 1924 - No immigration visa (female only)

APPLICATION: Suspension of deportation - Economic detriment

DETENTION STATUS: Released on own recognizance

DISCUSSION AS TO DEPORTATION: These records relate to a 27-year-old married male and his 27-year-old wife, both natives of Tortola, B. V. I. and subjects of Great Britain of the Negro race. The respondents last arrived at Charlotte Amalie, Virgin Islands; the male on July 29, 1939 on the British Sloop "Union" and the female on October 1, 1948 on the British M/B "Neptune". The male respondent was admitted as a cruise passenger and the female under Section 3(2) of the Immigration Act of 1924 for a period of 29 days. The male respondent has resided in the Virgin Islands, U.S.A., at intervals since 1936 and the female at intervals since 1940. Both respondents testified that at the time of arrival it was their intention to remain permanently. Therefore, their entry was unlawful. Neither one of the respondents applied for nor was granted an extension of his temporary stay. The respondents are deportable under the Immigration Act of 1924 on the no visa charge; the remained longer charge contained in the female respondent's warrant of arrest not being sustained.

DISCUSSION AS TO ELIGIBILITY FOR SUSPENSION OF DEPORTATION: The respondents were lawfully married to each other on January 18, 1945 at Charlotte Amalie, Virgin Islands. Neither respondent was previously married. They have three children, all born in Charlotte Amalie on May 2, 1945, November 20, 1946 and May 15, 1948, respectively. The female respondent's mother resides in Tortola. The respondents have made no mention of any dependents in Tortola, B. V.I. The female respondent and their three children are wholly

A-7189111
A-7083207

- 2 -

dependent upon the male respondent for support. The male respondent is employed as a plumber by the Virgin Islands Construction Company at a salary of \$.40 an hour. His assets consist of \$550 in savings in the bank and property in Tortola valued at from \$80 to \$100. The female respondent is employed as a laundress, earning about \$40 a month. She has about \$50 in the bank and assets valued at about \$100. The male respondent testified that their deportation would result in a serious economic detriment to their children, in that it is very hard to find work in Tortola and the wages are low there; the children would have to walk quite a distance to school and his wife would not be able to find work in order to assist with their support. He further testified that he would like to have his children attend school in St. Thomas and bring them up in the American way. The female respondent agreed with her husband as to the effect their deportation would have on their children. It is clear from the record that the respondents' deportation would result in a serious economic detriment to their three United States citizen children.

Since the respondents are quota immigrants chargeable to the quota for Great Britain and Northern Ireland, they could readily obtain an immigration visa if granted the privilege of voluntary departure.

The male respondent testified that he was fined \$2 for carrying a passenger without a taxi sign on his car and \$10 for trespassing, in that he took a soldier to the base and waited for him not knowing that taxis were not permitted on said base. The police records of Charlotte Amalie reflect that the respondent was fined \$2 for violation of an automobile ordinance on October 1, 1948; fined \$10 for trespassing on October 15, 1948 and had a case of traffic violation against him dismissed on March 25, 1949. The offenses cited above are not deemed of sufficient seriousness to affect his moral character during the past five years. A check of the appropriate local and federal records has failed to reflect an additional arrest and criminal record pertaining to him; and has failed to reveal any criminal record relating to the female respondent. The male respondent registered under the Selective Training and Service Act of 1940 but is not presently required to register under the Selective Service Act of 1948. Inquiry has disclosed that the respondents have no connection with any subversive groups. Witnesses have been produced to establish that the respondents have been persons of good moral character for the preceding five years. On the record the respondents have established their eligibility for suspension of deportation.

A-7189111
A-7083207

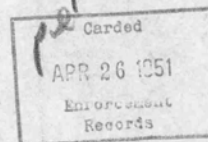
- 3 -

ORDER: It is ordered that the deportation of the respondents be suspended under the provisions of Section 19(c)(2)(a) of the Immigration Act of 1917, as amended.

IT IS FURTHER ORDERED that if Congress approves the suspension of the respondents' deportation, the proceedings be cancelled and the respondents charged to the quota for Great Britain and Northern Ireland.

HMS
HMS:mjb

ASSISTANT COMMISSIONER
ADJUDICATIONS DIVISION



ANNEX 2. EXECUTIVE SUSPENSION OF DEPORTATION DECISION FOR CARLO
EMANUEL WOODS (1951)

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

File: A-4 769 465 (No Appeal)

In re: CARLO EMANUEL WOODS MAY 21 1951

IN DEPORTATION PROCEEDINGS 00032065

IN BEHALF OF RESPONDENT: No one

CHARGES:

Warrant: Act of 1924 - No immigration visa

Lodged: None

Docketed
Referred to Congress
June 15, 1951
FILE
By JC

APPLICATION: Suspension of deportation - Economic Detriment

DETENTION STATUS: Released on conditional parole

DISCUSSION AS TO DEPORTATION: This record relates to a 27 year old married male, a native of Tortola, B.V.I. and a British subject who last entered the United States at Charlotte Amalie, V.I. on October 3, 1944 and was admitted as a temporary visitor for 29 days. That entry has been verified. The alien has stated that at the time of entry he intended to remain permanently in the United States but did not have an immigration visa in his possession. That entry not being a lawful one he is deportable under the Immigration Act of 1924 on the charge contained in the warrant of arrest.

DISCUSSION AS TO ELIGIBILITY FOR SUSPENSION OF DEPORTATION: The record shows that the alien was legally married to a British alien on September 27, 1945. His wife is also under deportation proceedings. Of this marriage there are four native-born United States citizen children. His wife is not employed and she and the children are completely dependent upon him for support. According to the record, the alien is permanently employed and earns 40¢ per hour. The family assets consist of household effects valued at \$350, postal savings of \$235 and some cattle in Tortola valued at \$300. It is clear from the record that the deportation of the alien would result in a serious economic detriment to his native-born United States citizen children.

He is a quota immigrant. However, the British quota is sufficiently large that he could readily obtain an immigration visa if granted the privilege of voluntary departure.

A check of the appropriate local and federal records has failed to reveal an arrest or criminal record. He registered under the Selective Training and Service Act of 1940 and the Selective Service Act of 1948. Inquiry has disclosed that he has no connection with any subversive groups. Witnesses have been produced to establish that he has been a person of good moral character since his arrival in the United States and he has presented a certificate

from the police authorities abroad to establish that he has no police record abroad. On the record, the alien has established his eligibility for suspension of deportation.

ORDER: It is ordered that the deportation of the alien be suspended under the provisions of Section 19(c)(2) of the Immigration Act of 1917, as amended.

IT IS FURTHER ORDERED that if Congress approves the suspension of the alien's deportation, the proceedings be cancelled and the alien, if a quota immigrant at the time of entry and not then charged to the appropriate quota, be so charged as provided by law.

W. B. ...
✓

NEW
J.P.S.

O. S. ...
ASSISTANT COMMISSIONER
ADJUDICATIONS DIVISION



ANNEX 3. EXECUTIVE SUSPENSION OF DEPORTATION DECISION FOR DIANA WOODS
(1951)

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

MAY 9 1951
(No Appeal)

File: A-6 057 673

In re: DIANA WOODS

IN DEPORTATION PROCEEDINGS

IN BEHALF OF RESPONDENT: No one

CHARGES:

Warrant: Act of 1924 - No immigration visa

Lodged: None

APPLICATION: Suspension of deportation - Economic Detriment

DETENTION STATUS: Released on Conditional parole

DISCUSSION AS TO DEPORTATION: This record relates to a 24 year old married female, a native of the Dominican Republic and a British subject who last entered the United States at Charlotte Amalie, V. I. on March 7, 1945 and was admitted as a temporary visitor for 29 days. That entry has been verified. The alien has stated that at the time of entry she intended to remain permanently in the United States but did not have an immigration visa in her possession. That entry not being a lawful one she is deportable under the Immigration Act of 1924 on the charge contained in the warrant of arrest.

DISCUSSION AS TO ELIGIBILITY FOR SUSPENSION OF DEPORTATION: The record shows that the alien was legally married to a British alien on September 27, 1945. Her husband is also under deportation proceedings. Of this marriage there are four native born United States citizen children. The alien is not employed. She and the children are completely dependent upon the husband for support. The husband is permanently employed and earns 40¢ per hour. The family assets consist of household effects valued at \$350, postal savings of \$255 and some cattle in Tortola valued at approximately \$300. It is clear from the record that the deportation of the alien would result in a serious economic detriment to her native-born United States citizen children.

As she is a non quota immigrant under Section 4(c) of the Immigration Act of 1924 she could readily obtain an immigration visa if granted the privilege of voluntary departure.

Docketed
Referred to Congress
JUNE 15 1951
FILE
By [Signature]

C0032062

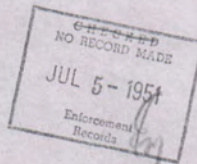
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A check of the appropriate local and federal records has failed to reveal an arrest or criminal record. Inquiry has disclosed that the alien has no connections with any subversive groups. Witnesses have been produced to establish that she has been a person of good moral character since her arrival in the United States, and she has presented a certificate from the police authorities abroad as well as affidavits of witnesses to establish that her moral character was above reproach prior to her arrival here. On the record, the alien has established her eligibility for suspension of deportation.

ORDER: It is ordered that the deportation of the alien be suspended under the provisions of Section 19(e)(2) of the Immigration Act of 1917, as amended.

IT IS FURTHER ORDERED that if Congress approves the suspension of the alien's deportation, the proceedings be cancelled and the alien, if a quota immigrant at the time of entry and not then charged to the appropriate quota, be so charged as provided by law.

Argueta
AS
W.S.
C. O. Deane
ASSISTANT COMMISSIONER
ADJUDICATIONS DIVISION



ANNEX 4. REPORT OF ALIEN ENEMY, JULY 24, 1945, RE BIRTH OF TERRY
(TERUHIKO) MAOKI

147/684

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
Crystal City Internment Camp
Crystal City, Texas

REPORT OF ALIEN ENEMY

AR None
C.O. None

Name MAOKI Teruhiko Male
(Last) (First) (Middle) (Nationality)

Alias None Japanese (American)
(Sex)

Birth Crystal City, Texas July 23, 1945
(Place) (Date)

Occupation: None
(Time of Apprehension)

Address: None
(Time of Apprehension)

Next of Kin: Father Usaburo MAOKI
(Relationship) (Name)
Crystal City Internment Camp, Crystal City, Texas
(Address)

Apprehended: Voluntary Crystal City, Texas July 23, 1945
(Agency) (Place) (Date)

Received by INS: Crystal City, Texas July 23, 1945
(Place) (Date)

(Fill in for Japanese only)

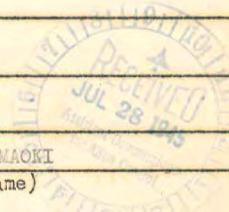
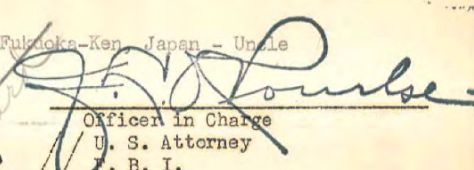
Status	Location
Previous <u>None</u>	Previous <u>None</u>
Present <u>Voluntary</u>	Present <u>Crystal City, Texas</u>
Effective Date of Change: <u>July 23, 1945</u>	

Remarks:

Next of kin in Japan: MANAGI, Matsujiro; Fukuoka-Ken, Japan - Uncle

Date of Report July 24, 1945

// Prisoner of War Information Bureau
// Special War Problems Division
// Director, Alien Enemy Control Unit
// Assistant Commissioner for Alien Control



 Officer in Charge
 U. S. Attorney
 F. B. I.
 File
 Chief, Info. Mail & Files Sec.C.C.



