

HYPOTHETICALLY SPEAKING: IMMIGRATION REFORM AND THE THREAT TO CITIZENSHIP



Photo: Wong Kim Ark, via
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President Obama once again asked for immigration reform in last night's State of the Union address:

... Our economy is stronger when we harness the talents and ingenuity of striving, hopeful immigrants. And right now, leaders from the business, labor, law enforcement, and faith communities all agree that the time has come to pass comprehensive immigration reform. Real reform means strong border security, and we can build on the progress my Administration has already made – putting more boots on the southern border than at any time in our history, and reducing illegal crossings to their lowest levels in 40 years. Real reform means establishing a responsible pathway to earned citizenship – a path that includes passing a background check, paying taxes and a meaningful penalty, learning

English, and going to the back of the line behind the folks trying to come here legally.

And real reform means fixing the legal immigration system to cut waiting periods, reduce bureaucracy, and attract the highly-skilled entrepreneurs and engineers that will help create jobs and grow our economy.

In other words, we know what needs to be done. As we speak, bipartisan groups in both chambers are working diligently to draft a bill, and I applaud their efforts. Now let's get this done. Send me a comprehensive immigration reform bill in the next few months, and I will sign it right away. ...

Compare last night's words to those on immigration reform in last year's State of the Union address:

... I believe as strongly as ever that we should take on illegal immigration. That's why my administration has put more boots on the border than ever before. That's why there are fewer illegal crossings than when I took office. The opponents of action are out of excuses. We should be working on comprehensive immigration reform right now.

But if election-year politics keeps Congress from acting on a comprehensive plan, let's at least agree to stop expelling responsible young people who want to staff our labs, start new businesses, defend this country. Send me a law that gives them the chance to earn their citizenship. I will sign it right away. ...

Right away then, right away now. Don't hold your breath.

The truth is no real traction on immigration reform has been made over the last year at federal level, even after an election. The far right, however, has been steadily working for the last three years at state level toward the denial of U.S. citizenship to undocumented immigrants, using Arizona SB 1070 as its initial stake in the sand. In theory, SB 1070 is the baseline model legislation from which this nationwide effort start. The long-term implications are far more complicated than they appear.

Here's a quasi-hypothetical question, a thought experiment about U.S. citizenship by birth. Let's assume these conditions in this case:

- Antecedant immigrates from China to Hawaii in 1898, marries a Hawaiian citizen, acquires Hawaiian property—during the same year in which the sovereign nation of Hawaii is annexed without the consent of Hawaiians.
- Antecedant has multiple children; the youngest is born in early 1930s while Hawaii is still a territory.
- Youngest child goes to school on mainland while Hawaii is still a territory. Meets and marries a U.S. citizen only months after Hawaii became a state.
- They have several children while living on the mainland after marriage.

If the far right manages to undermine *United States v. Wong Kim Ark*—the 1898 decision under which U.S. citizenship by birth was acknowledged—which of the people in the above scenario remain U.S. citizens?

If citizenship by birth can be denied, can they also be retroactively denied both citizenship as well as the right to own property? A number of states enacted Alien Land Laws during the early 1900s barring non-citizens from owning property. Though all but one state's laws have been repealed, under Florida law non-citizens may yet be barred from ownership. Assuming the anti-

immigration cohort undermines U.S. citizenship by birth, were the children of Chinese and Hawaiian citizens naturalized? Or can their naturalization be contested, along with rights to property ownership in Florida? Would states consider revisiting Alien Land Laws to discourage citizenship if Florida's law remains in place?

By now you're thinking this is all quite an unlikely set of scenarios. Let me challenge you one more time: what if all the above described my great-grandfather, grandfather, father, my natural siblings, and me? Should I take my family's citizenship for granted?

Though President Clinton and Congress apologized in 1993 for the overthrow of the sovereign Hawaiian nation, there's been little acknowledgment of the persistent abuse of Asian Americans rights, and Hawaiian sovereignty has been swept under the rug. If far right anti-immigrant bigots have their way at undermining the 14th Amendment and *United States v. Wong Kim Ark*, it's going to take a lot more than an apology to make this mess right.

Unless it is established upfront that anyone currently recognized as a U.S. citizen will continue to maintain that status, the White House should not ask for just any immigration reform bill—especially given the GOP-heavy House of Representatives now in office.

This little exercise hasn't begun to scratch the surface of the potential challenge. My grandfather appears to have immigrated from Canada as an infant in the early 1900s; his arrival in the states may not have been fully documented. Was he ever a truly naturalized citizen? Is my mother a U.S. citizen?

And what about your own family—when and how did they arrive in the U.S.? Will the zealous overreach of immigration reform question your own citizenship?

What's your status? Where are your papers?

Let's hope the threat to the citizenship status of white, English-speaking conservatives like my mother who've lived their entire lives in the U.S. gives xenophobic anti-immigration proponents pause.