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The Leadership Conference

STATEMENT OF THE LEADERSHIP CONFERENCE ON CIVIL AND HUMAN RIGHTS

COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON THE CONSTITUTION AND LIMITED GOVERNMENT
UNITED STATES HOUSE OF REPRESENTATIVES

HEARING ON "'SUBJECT TO THE JURISDICTION THEREOF': BIRTHRIGHT CITIZENSHIP AND THE FOURTEENTH AMENDMENT"

FEBRUARY 25, 2025

Chairman Chip Roy, Ranking Member Mary Gay Scanlon, and members of the subcommittee: The Leadership Conference on Civil and Human Rights is submitting this statement for the record in today's hearing on the Citizenship Clause of the 14th Amendment to the United States Constitution.

The Leadership Conference on Civil and Human Rights is the nation's oldest and largest civil rights coalition with a diverse membership of more than 240 national organizations working to build an America as good as its ideals. Since our founding in 1950, The Leadership Conference has helped to secure the passage of every major civil rights law, from the Civil Rights Acts of 1957 and 1964, to the Americans with Disabilities Act, and many more.

Ever since its ratification in 1868 as the first words of the 14th Amendment to the U.S. Constitution, the meaning of the Citizenship Clause has been abundantly clear:

"*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*."[1]

It ought to be enough for us to conclude our statement with those words. But in light of a recent attempt to relitigate and redefine the text of the Constitution through a presidential executive order, we feel it necessary to make several additional points.

First, ratified in 1868 in the wake of the Civil War, our nation's bloodiest conflict, the Citizenship Clause was designed to ensure that all children born in the United States, with minor exceptions for children of foreign diplomats and invading forces, are citizens. While birthright citizenship had been accepted as a matter of common law prior to the ratification of the 14th Amendment,[2] its explicit wording was meant to ensure that there would never again be an underclass of Americans.

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[1] U.S. Const., amend. XIV, § 1.

[2] *See, e.g., Murray v. The Schooner Charming Betsy*, 6 U.S. (2 Cranch) 64 (1804) (stating that a party to the case "having been born within the United States, and not being proved to have expatriated himself according to any form prescribed by law, is said to remain a citizen, entitled to the benefit and subject to the disabilities imposed upon American citizens," at 119-120); *United States v. Rhodes*, 27 F. Cas. 785 (C.C.D. Ky. 1866) (No. 16,151 ("Citizens under our constitution and laws means free inhabitants born within the United States or naturalized under the laws of Congress. We find no warrant for the opinion that this great principle of the common law has ever been changed in the United States

Second, since the Citizenship Clause's adoption, the federal courts have repeatedly confirmed that it means exactly what it says. In 1898, the U.S. Supreme Court ruled in *United States v. Wong Kim Ark*[3] that the Clause guarantees citizenship to people born in the United States even if their parents were ineligible for citizenship, and that Congress could not limit its meaning by statute. This ruling has remained settled law for more than a century.[4]

Third, the Citizenship Clause's guarantee has been profoundly beneficial for our nation. It has served as a cornerstone of the movement to secure civil rights for all Americans, including the right to vote. And it has played an important role in unifying America's great cultural diversity, which serves as a role model for the rest of the world.

Fourth, efforts to undermine the Citizenship Clause, whether by federal statute or state legislation or executive order, are unconstitutional. The Constitution, our foundational legal document, overrides conflicting federal statutes and regulations, as well as contrary state constitutions or laws.[5]

Fifth, taking out our frustration with the current immigration system by creating a dual society would be misguided, would violate our values of equality and fairness, and would result in exactly the sort of permanent underclass that the 14th Amendment was written to prevent from ever again existing in our nation.

Finally, undermining the Citizenship Clause would have many other disastrous effects for everyone in our country. The citizenship of every person born in the United States could be called into question — and requiring parents to prove their citizenship, in the midst of the momentous occasion of childbirth, would require the creation of extensive new government bureaucracy along with new costs, burdensome procedures, invasion of privacy, and legal disputes.

We appreciate you including the above views of The Leadership Conference on Civil and Human Rights in today's hearing. If you have any questions, please contact Rob Randhava, senior counsel, at randhava@civilrights.org.

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[3] 169 U.S. 649 (1898).

[4] *See, e.g.*, *Miller v. Albright*, 523 U.S. 420 (1998) ("'There are 'two sources of citizenship, and two only: birth and naturalization.' Within the former category, the Fourteenth Amendment of the Constitution guarantees that every person 'born in the United States, and subject to the jurisdiction thereof, becomes at once a citizen of the United States, and needs no naturalization.' Persons not born in the United States acquire citizenship by birth only as provided by Acts of Congress," at 423-424 (quoting *United States v. Wong Kim Ark*, 169 U.S. 649, 702 (1898)).

[5] U.S. Const., art. VI.