Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

TRUMP, PRESIDENT OF THE UNITED STATES, ET AL. *v.* BARBARA ET AL.

CERTIORARI BEFORE JUDGMENT TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

No. 25–365. Argued April 1, 2026—Decided June 30, 2026

The question presented is whether the Constitution guarantees citizenship to children born in the United States of parents who are unlawfully or temporarily present in the country. Under the Citizenship Clause of the Fourteenth Amendment, "[a]ll 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." On January 20, 2025, President Trump issued Executive Order No. 14160, titled Protecting the Meaning and Value of American Citizenship. The Order provides that children born in the United States of parents who are unlawfully or temporarily present here are not "subject to the jurisdiction" of the United States—and thus do not qualify for citizenship under the Fourteenth Amendment or the Immigration and Nationality Act (INA), which uses the same language. 90 Fed. Reg. 8449. Several parents filed suit, some in the name of their children, arguing that the Executive Order violates the Fourteenth Amendment and the INA. The District Court agreed, provisionally certified a nationwide class of children who would be denied citizenship by the Order, and preliminarily enjoined the Order's enforcement. This Court granted certiorari before judgment.

Held: Children born in the United States to parents unlawfully or temporarily present are "subject to the jurisdiction" of the United States and are citizens at birth under the Fourteenth Amendment's Citizenship Clause. Pp. 2–26.

(a) The Citizenship Clause must be understood in light of its historical context, from the English common law to the widespread condemnation of the Court's decision in *Dred Scott* v. *Sandford*, 19 How. 393.

Syllabus

Pp. 2–9.

(1) Under the English common law, children "born within the [sovereign's] dominions" owed a natural "allegiance" to the sovereign who protected them at birth, 1 W. Blackstone, Commentaries on the Laws of England 354, 356 (Blackstone), regardless of how "momentary and uncertain" their presence, *Calvin's Case*, 7 Co. Rep. 1a, 6a, 77 Eng. Rep. 377, 384. Such children were therefore "natural-born subject[s]." *Doe* v. *Jones*, 4 T. R. 300, 308, 100 Eng. Rep. 1031, 1035. The same rule applied to children born of parents subject to expulsion. See, *e.g.*, 4 Blackstone 166. The rule's exceptions were narrow: children born in lands the sovereign did not control, children born in areas temporarily outside the sovereign's control, and children of foreign ministers (by a fiction of extraterritoriality). *Calvin's Case*, 7 Co. Rep., at 18a–18b, 77 Eng. Rep., at 399.

This common law of citizenship—known as *jus soli*, or right of the soil—crossed the Atlantic and prevailed in "each and all of the states" after American independence. 2 J. Kent, Commentaries on American Law 39, n. a (Kent). The rule was applied even to the novel situation of quasi-sovereign Indian tribes, who maintained "dominion[s]" of their own such that Indians born under those dominions were not "citizens" but members of "alien and sovereign tribes." *Goodell* v. *Jackson ex dem. Smith*, 20 Johns. 693, 714–715 (N. Y. Ct. Corr. Errors). In a Nation of immigrants, *jus soli*'s broad scope took on particular importance, assuring that children of foreigners—including those here on a "temporary sojourn," *Lynch* v. *Clarke*, 1 Sand. Ch. 583, 638, 663–664 (N. Y. Ch.)—would be American citizens by birth alone. Pp. 2–6.

(2) In *Dred Scott* v. *Sandford*, the Court departed from the common law and adopted the view that blood, not soil, determined citizenship; it held that those descended from slaves could not be citizens. 19 How., at 419. The decision was met with shock, see D. Potter, The Impending Crisis, 1848–1861, p. 281; 3 Writings of Abraham Lincoln 55, and abolitionists swore to undo what the Court had done, see 2 Life and Writings of Frederick Douglass 259, 415, 424. Pp. 6–8.

(3) In the midst of the Civil War, Attorney General Edward Bates issued a landmark opinion citing key authorities, including *Calvin's Case* and Kent's Commentaries, rejecting the premise that "citizenship is ever hereditary," and declaring that "every person born in the country is, at the moment of birth, *prima facie* a citizen, . . . without any reference to race or color." 10 Op. Atty Gen. 382, 394, 399. The exceptions were "few"—"the small and admitted class of the *natural-born* composed of the children of foreign ministers and the like." *Id.*, at 397.

Following the war, Congress sought to turn Bates's opinion into law by enacting the Civil Rights Act of 1866, which made citizens of "all persons born in the United States and not subject to any foreign power,

excluding Indians not taxed." §1, 14 Stat. 27. The Act was simply assumed to invoke the common law rule. See Cong. Globe, 39th Cong., 1st Sess., 1116 (Rep. Wilson); *id.*, at 1832 (Rep. Lawrence). Pp. 8–9.

(b) What the Civil Rights Act began, the Fourteenth Amendment, and its repudiation of *Dred Scott*, would finish. Pp. 9–12.

(1) The Fourteenth Amendment's Citizenship Clause mirrored the common law's criteria for citizenship, starting with territory (a child must be "born . . . in the United States") and ending with sovereign power (a child must be "subject to the jurisdiction" of the United States). A child born on American soil and subject to American law was made an American citizen. Even the *language* of the Clause is that of the common law, echoing cases and treatises that described the common law rule. See, *e.g.*, *Lynch*, 1 Sand. Ch., at 668; Kent 38 and n. a. And its principal author explained that its language was "simply declaratory of . . . the law of the land already." Cong. Globe, 39th Cong., 1st Sess., 2890 (Sen. Howard). Pp. 9–10.

(2) The Citizenship Clause's key phrase—"subject to the jurisdiction"—refers to the power of the United States to govern those within its territory. N. Webster, An American Dictionary of the English Language 732 (def. "jurisdiction"); J. Worcester, Dictionary of the English Language 1435 (def. "subject"). The scope of that power was settled largely by *Schooner Exchange* v. *McFaddon*, 7 Cranch 116, where Chief Justice Marshall explained that "jurisdiction" referred to "the full and complete power of a nation within its own territories," "susceptible of no limitation not imposed" by the nation itself. *Id.*, at 136. The narrow exceptions to jurisdiction arose where exercising jurisdiction would "degrade the dignity" of "foreign sovereigns"—most frequently in the case of "foreign ministers." *Id.*, at 136–139. But private individuals who traveled to the United States for "business or caprice" were "amenable to the jurisdiction of the country." *Id.*, at 144. Children born in the United States to parents unlawfully or temporarily present here are thus subject to the Nation's jurisdiction. Pp. 10–12.

(c) The Court's precedent in *United States* v. *Wong Kim Ark*, 169 U. S. 649, confirms this rule. Pp. 13–16.

(1) For nearly two decades after the Amendment's ratification, the Executive Branch viewed the Citizenship Clause as "simply an affirmance of the common law," with the limited exception of "the children of foreign ministers," and others "with rights of extraterritoriality." Memorandum of Secretary of State H. Fish to Mr. Marsh (May 19, 1871), in 2 Digest of the International Law of the United States §183, p. 394. But the end of the Reconstruction era brought uncertainty. Around that time, the State Department began to deny citizenship to those with "dual or doubtful allegiance," *id.*, at 402, and several scholars proposed a new international-law based theory of the Citizenship

Clause, focused on the *parents'* status, not the *child's*, F. Wharton, Conflict of Laws §10, p. 35. Only if a child's parents were "domiciled in the United States" was the child "*internationally* subject to the jurisdiction of the United States," as the Citizenship Clause (they said) required. *Id.*, §12, at 41–42 (emphasis added). Acknowledging that the common law took a different view, these writers insisted that *jus soli* had not been made part of the Constitution. Pp. 13–14.

(2) In *Wong Kim Ark*, the Court held that the Fourteenth Amendment was "declaratory" of the "fundamental rule of citizenship by birth" that prevailed at common law, 169 U. S., at 688, excluding only those recognized as exempt "from the jurisdiction of this country"—the "children of ambassadors" and those born in the nations of Indian tribes, *id.*, at 675, 681–683, 693. All others were citizens at birth, whether born to permanent residents or temporary visitors. See *id.*, at 676, 687–688. The Court wrote that the words "'subject to the jurisdiction thereof'" "must be presumed to have been understood . . . in the same sense" as Chief Justice Marshall used them in *Schooner Exchange*. *Wong Kim Ark*, 169 U. S., at 687. Under that understanding, aliens who traveled to the United States for "business or pleasure" received no "exemption from the jurisdiction of the country." *Id.*, at 686. To the contrary, they were subject to that jurisdiction for as long as they remained here—and any children born to them were American citizens under the Fourteenth Amendment. See *id.*, at 682–688. Pp. 14–16.

(d) Arguments for limiting birthright citizenship to those domiciled in the United States fail. These arguments err in their definition of "allegiance," contending that natural allegiance was no longer sufficient for citizenship and that some greater quantum of allegiance (based on domicile) was required. There is scant evidence for this dramatically revisionist view; sources from 1776 to 1868 defined "allegiance by birth" just as the British did—as "the tie or duty" owed by one who is "born within the dominions and under the protection of a particular sovereign." *Inglis* v. *Trustees of Sailor's Snug Harbour in City of New York*, 3 Pet. 99, 155.

Domicile and national citizenship are distinct concepts; one who establishes a domicile in a new country does not automatically become a citizen thereof, nor does he automatically lose his prior citizenship.

The congressional debates over the Civil Rights Act of 1866 and the Fourteenth Amendment confirm the common law rule. Statements embracing the common law rule were far more frequent and explicit than ambiguous references to "temporary sojourners." See, *e.g.*, Cong. Globe, 39th Cong., 1st Sess., 1117. For a Congress intent on putting the question of citizenship "once and forever [to] rest," Cong. Globe, 42d Cong., 1st Sess. 575, a domicile-based qualification would have

introduced significant uncertainty. Yet the word "domicile" appears just twice in the discussion of the relevant provision of the Civil Rights Act, see Cong. Globe, 39th Cong., 1st Sess. 1160; *id.*, at 1117, and in only one speech from the Citizenship Clause debates, see *id.*, at 3031–3032. Sources from after the ratification of the Fourteenth Amendment do not put in doubt the understanding of the Citizenship Clause at the time of (and after) its ratification. In any case, postenactment history cannot override the text. If Congress intended to limit American citizenship to the children of those domiciled in the United States, nothing in the succinct language of the Citizenship Clause conveyed that design; words appearing frequently in the Executive Order—"mother," "father," "lawful," "temporary"—are absent from the Clause.

Attempts to narrow *Wong Kim Ark* by noting that the Court's opinion repeatedly referred to the domicile of Wong's parents fail because the holding's underlying reasoning cannot be squared with a domicile requirement; the Court exhaustively canvassed the text and history of the Citizenship Clause and at no point identified any evidence that the ratifiers thought themselves to be imposing a domicile limitation. Pp. 17–26.

Affirmed.

ROBERTS, C. J., delivered the opinion of the Court, in which SOTOMAYOR, KAGAN, BARRETT, and JACKSON, JJ., joined. JACKSON, J., filed a concurring opinion, in which SOTOMAYOR, J., joined as to the introduction and Part I. KAVANAUGH, J., filed an opinion concurring in the judgment and dissenting in part. THOMAS, J., filed a dissenting opinion, in which GORSUCH, J., joined. ALITO, J., and GORSUCH, J., filed dissenting opinions.