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Citizenship of Children of Alien Parents.

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CITIZENSHIP OF CHILDREN BORN IN THE UNITED STATES  
OF ALIEN PARENTS.

A child born in the United States of alien parents, who have never been naturalized, is, by the fact of birth, a native-born citizen of the United States, entitled to all the rights and privileges of citizenship.

ATTORNEY GENERAL'S OFFICE,  
*September 1, 1862.*

SIR: I have the honor to acknowledge the receipt of your letter of the 14th ult., in which you request my official opinion on the question, whether a child born in the United States, whose parents are aliens, who have never been naturalized, can, without naturalization, be considered a citizen of the United States.

In my letter to you of the 6th ult., concerning the case of Mrs. Preto and her daughter, I had occasion to express the opinion that the daughter of an unnaturalized Spanish father, and of a native-born American mother, born in this country, but afterwards removed with her parents to Spain, where her father died, was a native-born American citizen, fully entitled to the protection of her country. The question now presented is of somewhat broader scope, but I do not think that the variant fact which it involves, viz: that both the parents are unnaturalized aliens, at all distinguishes it, in principle, from the question then considered. I am quite clear in the opinion that children born in the United States of alien parents, who have never been naturalized, are native-born citizens of the United States, and, of course, do not require the formality of naturalization to entitle them to the rights and privileges of such citizenship. I might sustain this opinion by a reference to the well settled principle of the common law of England on this subject; to the writings of many of the earlier and later commentators on our Constitution and laws; to the familiar practice and usage of the country in the exercise of the ordinary rights and duties of citizenship; to the liberal policy of our Government in extending and recog-

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 Citizenship of Children of Naturalized Parents.
 

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nizing these rights, and enforcing these duties; and, lastly, to the *dicta* and decisions of many of our national and State judicial tribunals. But all this has been well done by Assistant Vice Chancellor Sandford, in the case of *Lynch vs. Clarke*, (1 Sand. Ch. Rep., 583,) and I forbear. I refer to his opinion for a full and clear statement of the principle, and of the reasons and authorities in its support.

Of course you will understand that I do not affirm the rule in such exceptional cases as the birth of the children of foreign ambassadors and the like.

I am, sir, very respectfully,

Your obedient servant,

EDWARD BATES.

Hon. Wm. H. SEWARD,

*Secretary of State.*

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**CITIZENSHIP OF CHILDREN BORN ABROAD OF NATURALIZED PARENTS.**

1. Children born abroad of aliens, who subsequently emigrated to this country with their families, and were naturalized here during the minority of their children, are citizens of the United States.
2. Children born here of alien subjects, who have declared their intention of becoming citizens, are citizens of the United States.

ATTORNEY GENERAL'S OFFICE,

*September 2, 1862.*

SIR: Your letter of the 21st ult., submits for my opinion two questions, the first of which is:

Are children born abroad of aliens, who subsequently emigrated to this country with their families, and were naturalized here during the minority of their children, to be considered citizens of the United States?

Under the 4th section of the act of April 14, 1802, to establish an uniform rule of naturalization, &c., (2 Stats., 153,) such children, if dwelling in the United States, are declared citizens. That section provides, in brief, that the children of persons duly naturalized under any of the laws of the United States, &c., being under the age of twenty-