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What Frederick Douglass Knew That Trump and DeSantis Don't

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There was a moment during the Trump administration when the president and his most ideologically committed advisers searched for a way to end birthright citizenship.

Enshrined in the first sentence of the first section of the 14th Amendment to the Constitution, birthright citizenship means that anyone and everyone born on American soil is an American citizen. Written to secure the social transformations wrought by the Civil War, it is a cornerstone of the United States as a multiracial democracy.

President Donald Trump would end it, he decided, by executive order. “It was always told to me that you needed a constitutional amendment. Guess what? You don’t,” he said when announcing the effort in 2018, falsely asserting, “We’re the only country in the world where a person comes in and has a baby, and the baby is essentially a citizen of the United States — with all of those benefits. It’s ridiculous. It’s ridiculous. And it has to end.”

Fortunately, Trump was wrong. There is no way, short of a constitutional amendment, to nullify the birthright citizenship clause of the 14th Amendment. Nor was there any question of its meaning and intent. After fierce pushback from legal scholars on both the left and the right, Trump dropped the issue.

But he didn’t forget about it. Earlier this year, Trump announced that if he were elected president again, he would ban birthright citizenship through executive order. Not to be outdone in the race for the Republican presidential nomination, Ron DeSantis, the governor of Florida, said that he, too, would end birthright citizenship if elected president.

“Stop the invasion,” said DeSantis’s blueprint for immigration policy. “No excuses.” He is pledging to “take action to end the idea that the children of illegal aliens are entitled to birthright citizenship if they are born in the United States.” He also contends, “Dangling the prize of citizenship to the future offspring of illegal immigrants is a major driver of illegal migration,” adding that “it is also inconsistent with the original understanding of the 14th Amendment.”

The main reason DeSantis has followed Trump down this path is that he appears to be running to be the understudy to the former president. If Trump is forced out of the race because his legal troubles push him out of presidential politics, then DeSantis will take the standard for the MAGA faithful. Or so he hopes.

At the same time, it’s clear that DeSantis’s position is as much about ideology as it is about opportunism. His attack on birthright citizenship is consistent with his crusade to purge “wokeness” from schools and classrooms in the state of Florida, where officials have banned books and suppressed instruction on, among other subjects, the history of American racism.

The attack on birthright citizenship is an attempt to stigmatize and remove from society an entire class of people. And the attack on so-called wokeness is an attempt to delegitimize and remove from society an entire way of understanding the world. Together, the attacks form an assault on two of the pillars of the egalitarian ideal.

Here, it is worth taking a brief tour of the history of birthright citizenship in the United States. Before the 14th Amendment, the boundaries around citizenship were ill defined. Although the idea of birthright citizenship was present in English common law at the time of the adoption of the Constitution, the Constitution as ratified said nothing about acquiring citizenship by either birth or naturalization.

In 1790, Congress limited citizenship by naturalization to “free White persons ... of good character,” but was silent on the question of citizenship by birth. As the 18th century came to a close and the 19th century progressed, one prominent view was that there was no citizenship in the United States as such; there was only citizenship in a state, which conferred national citizenship by virtue of the state’s

place in the Union. To the extent that citizenship came with rights, the scope of those rights was a question of state laws and state constitutions.

But there were always proponents of a broader, more expansive and rights-bearing birthright citizenship. They were free Black Americans, who needed to anchor themselves in a world where their freedom was tenuous and uncertain.

"We are Americans, having a birthright citizenship," wrote Martin Delany, the free Black journalist and antislavery orator, in his 1852 pamphlet "The Condition, Elevation, Emigration and Destiny of the Colored People of the United States." Delany, as the historian Martha S. Jones noted in "Birthright Citizens: A History of Race and Rights in Antebellum America," called on Black Americans to leave the United States. And yet, he still claimed the country as his own.

"Our common country is the United States," Delany wrote. "Here were we born, here raised and educated; here are the scenes of childhood; the pleasant associations of our school going days; the loved enjoyments of our domestic and fireside relations, and the sacred graves of our departed fathers and mothers, and from here will we not be driven by any policy that may be schemed against us."

Against legislative efforts to make their lives in America impossible to live, free Blacks asserted that, in Delany's words, "the rights of the colored man in this country to citizenship are fixed," attached not just to the states, but to the United States.

Jones noted that even those opposed to emigration, like the men of the 1853 Colored National Convention in Rochester, N.Y., mirrored Delany's thinking. "We are Americans, and as Americans, we would speak to Americans," declared the group. "We address you not as aliens nor as exiles, humbly asking to be permitted to dwell among you in peace; but we address you as American citizens asserting their rights on their own native soil."

With his 1857 decision in *Dred Scott v. Sandford*, however, Chief Justice Roger Taney foreclosed the constitutional recognition of Black citizenship and defined the United States, in true Jacksonian form, as a white man's country. Black people, he wrote, "were not intended to be included, under the word 'citizens' in the Constitution, and can therefore claim none of the rights and privileges which that instrument provides for and secures to citizens of the United States." They had no rights, he added, "which the white man was bound to respect."

The birthright citizenship clause of the 14th Amendment, based on similar language found in the Civil Rights Act of 1866, was a direct response to and a rebuke of Taney's reasoning. Having won the argument on the battlefield, the United States would amend its Constitution to establish an inclusive and, in theory, egalitarian national citizenship.

The authors of the 14th Amendment knew exactly what they were doing. In a country that had already seen successive waves of mass immigration, they knew that birthright citizenship would extend beyond Black and white Americans to people of other hues and backgrounds. That was the point.

Asked by an opponent if the clause would "have the effect of naturalizing the children of Chinese and Gypsies born in this country," Senator Lyman Trumbull, who helped draft the language of birthright citizenship in the Civil Rights Act, replied "Undoubtedly." Senator John Conness of California said outright that he was "ready to accept the provision proposed in this constitutional amendment, that the children born here of Mongolian parents shall be declared by the Constitution of the United States to be entitled to civil rights and to equal protection before the law with others."

In 1867, around the time Congress was debating and formulating the 14th Amendment, Frederick Douglass delivered a speech in Boston where he outlined his vision of a "composite nationality," an America that stood as a beacon for all peoples, built on the foundation of an egalitarian republic. "I want a home here not only for the Negro, the mulatto and the Latin races; but I want the Asiatic to find a home here in the United States, and feel at home here, both for his sake and for ours," Douglass said. "The outspread wings of the American Eagle are broad enough to shelter all who are likely to come."

If birthright citizenship is the constitutional provision that makes a multiracial democracy of equals possible, then it is no wonder that it now lies in the cross hairs of men who lead a movement devoted to unraveling that particular vision of the American republic.

Embedded in birthright citizenship, in other words, is the potential for a freer, more equal America. For Donald Trump and Ron DeSantis, that appears to be the problem.

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