

Statement of Philip Peters
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on the Citizenship Reform Act of 1997 (H.R. 7)

Subcommittee on Immigration and Claims
Committee on the Judiciary
House of Representatives

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Mr. Chairman, Members of the Subcommittee:

Thank you for inviting me to comment on H.R. 7, the Citizenship Reform Act of 1997.

This bill aims to change the meaning of the 14th Amendment so as to deny citizenship to children born in the United States to illegal immigrant parents.

I recognize that there is a legal debate as to whether this bill's purpose is most appropriately accomplished by statute or by Constitutional amendment. I leave that debate to lawyers and constitutional scholars. As a citizen who studies immigration and reveres the Constitution, I respectfully offer you the opinion that H.R. 7 is bad policy.

And I say that as one who agrees that we need to reduce illegal immigration.

This bill is a powerful weapon targeted at illegal immigration, but it misfires. It will not deter illegal immigration. Instead, it will damage constitutional and civil rights.

Passage of this bill would break the fundamental civil rights guarantee of the 14th Amendment -- that children born here belong here and have the rights of American citizens, and that there will never again be a native-born class of non-citizens growing up in America.

This guarantee is Lincoln's work. The Republican platform of 1864 envisioned it as a means of ending the "gigantic evil" of slavery.

I would argue that the 14th Amendment's definition of citizenship has been a settled legal issue for over a century because it fits so naturally with the American people's commitment to equality.

If this bill is passed, the Constitution's commitment to equality will be cast into doubt. Even if this measure would solve our contemporary problem of illegal immigration -- and it will not -- that is too high a price to pay.

Mr. Chairman, the last official act of the late Barbara Jordan, a former member of this Committee and Chair of the Commission on Immigration Reform, was to discuss precisely these issues with you and your colleagues on December 13, 1995.

In her testimony, she cited the fundamental American idea "that governments do not grant rights. We are born with them." She talked about the "kind of perfection" America has "because our founding principle is universal: that we are all created equal regardless of race, religion or national ancestry." She discussed how this principle has led through our history to the enfranchisement of citizens who owned no land, then women,

then blacks. She concluded: "To deny birthright citizenship would derail this engine of American liberty."

Based on these civil rights issues, my first argument is that the bill offers a solution that is misdirected, and is vastly out of proportion with the problem it addresses.

I see no issue in immigration policy today that justifies diluting or casting doubt on a fundamental civil rights guarantee. If it is necessary to address the high costs some jurisdictions incur due to concentrations of illegal immigrants, then we should look at possible financial remedies. Constitutional change should not be the first resort.

My second argument is that the bill won't accomplish its own goal.

I know of no evidence that a large proportion of illegal immigrants enter the U.S. to bear children as a first step to citizenship. I am aware of no Immigration and Naturalization Service (INS) or Border Patrol report showing high rates of apprehension of pregnant women hiking across our borders. And Chairwoman Jordan reported to you that in three years of the Commission's intensive research, there were no reports "that the vast majority of births to illegal aliens are anything more than a reflection of the large numbers of illegal aliens who are here. The reason most illegal aliens come to our country boils down to three words: They get jobs."

My third argument is that the bill is not needed because other solutions are in place and need time to work.

Let me review some steps recently taken to reduce illegal immigration.

- The new immigration law vastly increases resources for border enforcement; it provides new penalties for visa overstays and for the activities that abet illegal immigration, from alien smuggling to document fraud.
- Over a year ago, the Administration stopped giving work permits to asylum seekers awaiting adjudication; this blocked a significant route to illegal immigration.
- Last week, the INS announced that it will deploy agents to thirteen new offices overseas to combat alien smuggling rings on their own turf.
- And the pace of deportations of illegal immigrants is running 35 percent higher than the record pace of 1996.

These measures promise to be effective, and many are only beginning to be applied. They offer one more reason not to change the 14th Amendment.

Finally, H.R. 7 does not meet the test of practicality.

If this bill goes into effect, a new stateless class of residents will grow up here, the first such class since the children of slaves before the Civil War. If they have accents as adults, these individuals may have to prove their parents' citizenship when they come into contact with their government. They and government officials will have new responsibilities to verify the status of deceased parents. If they commit crimes, but are not subject to the jurisdiction of the United States, prosecution and/or deportation become difficult to conceive. The list of complications is as long as a creative lawyer's imagination.

And last but not least on the list of practical issues is the certainty that H.R. 7 will be challenged on many grounds, including that it may violate the clearly prescribed means of changing the Constitution enumerated in Article V.

In conclusion, Mr. Chairman, the problem of illegal immigration deserves your attention. But I would respectfully urge the Subcommittee to monitor the variety of measures Congress passed last year, and to consider ways to adjust these measures if they prove ineffective in practice.

This bill is a major step backwards for civil rights, and it will not deter illegal immigration. It does not deserve your support.