

Opinion No. 26-3877

February 15, 1926

BY: FRED E. WILSON, Attorney General

TO: Requested February 12, 1926, by the State Bureau of Public Health, Santa Fe, N.M.

A child born on June 13, 1908, in the State of New Mexico, whose father was a subject of Great Britain, the father and mother residing in the State of New Mexico at the time, is a citizen of the United States and of the State of New Mexico.

OPINION

You inquire as to the nationality of one Frank Louis Tibbets, who was born at Flora Vista, San Juan County, New Mexico, on June 13, 1908. His father was a Canadian, not naturalized, and his mother was American born. At the time the child was born the father and mother were residents of New Mexico.

Under the above state of facts I am of the opinion that the child is a citizen of the United States and of the State of New Mexico.

Amendment No. XIV to the Constitution of the United States is as follows:

"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."

The phrase used in the above constitutional provision, "and subject to the jurisdiction thereof," has been construed to include the children of all persons residing in the United States, and subject to the laws of the United States. This includes children of alien parents, with a few exceptions not applicable to the present case.

This constitutional provision was thoroughly discussed in the case of United States v. Wong Kim (Ark.) 169 U.S. 649.