A Five-Paragraph Treatise on nbC

by [Joseph DeMaio](), ©2023

"Scene at the Signing of the Constitution," Howard Chandler Christy, 1940, public domain

(Dec. 13, 2023) — In the spirit of Christmas, and with hopes for a very Happy New Year for all *P&E* readers, your humble servant has determined to create and provide a gift. It is hoped that the gift may assist in explaining, in something of a "Cliff's Notes®" abbreviated way, why it is far more likely than not that the general narrative now circulating as to who is or is not a "natural born Citizen" ("nbC") under the Constitution – purportedly, a "citizen at/by birth," regardless of parental citizenship or place of birth – is wrong.

Specifically, in a "micro-treatise" offering a scant five (5) sentence-paragraphs long, your servant hopes to briefly summarize why the Founders intended to use the definition found in § 212, Book I, Ch. 19 of Emer de Vattel's tome, "*The Law of Nations,*" (1758) as the one to be adopted in Art. 2, § 1, Cl. 5 of the Constitution, the presidential "Eligibility Clause." That definition, of course, is a person born here to two U.S. citizen parents.

So, without further ado, your servant presents – suitable for printing and carrying around to confront any "deVattel Deniers" *P&E* readers may encounter – the micro-treatise:

A Five-Paragraph Treatise on nbC

- As confirmed by Publius – Alexander Hamilton – in Federalist 68, the Founders sought to erect the ***highest*** available barrier to the potential for the insinuation of foreign influence into the "chief magistracy" – the presidency – of the new Republic, selecting the term "natural born Citizen" as a strong restriction on

eligibility as "hinted" by John Jay in his July 25, 1787 letter to Constitutional Convention Chair George Washington;

- The highest available barrier in 1787 to the potential for the insinuation of foreign influence into the presidency was that found in § 212 of Book I, Ch. 19, "*The Law of Nations*" (1758) by Swiss lawyer, jurist and scholar Emer de Vattel, defining a "natural born citizen" as a person born on the soil of a country to parents ***both*** of whom were already citizens of that country;

- The U.S. Supreme Court stated in *Minor v. Happersett*, 88 U.S. 162 (1875), that the Founders understood, under the nomenclature of the time and without ***any*** doubt, that a person born here to parents ***both*** of whom were already U.S. citizens was a "natural born Citizen," but also adding that there were "doubts" as to whether the same nbC status could properly be accorded to persons born here regardless of their parents' citizenship;

- A definition of an nbC which accords nbC status to persons born anywhere, even beyond U.S. soil, if one or the other parent – but not necessarily both, either of which might be a dual citizen – is a U.S. citizen, producing a "citizen at birth" or a "citizen by birth," presents a much ***lower*** barrier to the potential for insinuation of foreign influence into the presidency than does a ***higher*** barrier incorporating the de Vattel § 212 nbC definition, which ensures ***exclusive and undivided*** allegiance to the United States alone;

- It defies logic – and in factual reality is both illogical and counterintuitive – to accept that the Founders would have consciously adopted a ***lower*** "foreign influence insinuation" barrier when a known, ***higher*** barrier existed and in particular one which, as confirmed by the Supreme Court, was in the Founders' view free of ***any*** "doubt" as to its import or meaning.

Readers are encouraged to report back to the intrepid *P&E* Editor if any de Vattel Deniers who may be confronted have any rational response to the micro-treatise. Responses such as "Oh, for cryin' out loud, give it a rest…" or "Move along, there's nothing to see here…" do not count as "rational" responses. Those are excuses for an inability or unwillingness to produce good answers…, not a lot unlike the posture of the current Supreme Court.