



# The Who, What, When, Where, Why, and How of the “natural born Citizen” Term In Our United States Constitution

WHITE PAPER  
28 Feb 2016

Minor Edits: 12 Jun 2017

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**Who:** The various sovereign, free, and independent several states, as a result of the revolution against England had loosely banded together in a confederation to battle England and thus formed the new United States in 1776. In 1787 they decided to convene a convention of the states to draw up a Constitution to form a stronger, “more perfect” union and appointed delegates from their several states for that purpose. The delegates met in the summer of 1787 in Philadelphia, PA to write the new contract<sup>1</sup> on behalf of We the People represented by our several states. While there, the delegates considered, among many things, the eligibility qualifications for who could be the President of the new stronger more perfectly unified United States under the in-draft and newly proposed Constitution of the United States<sup>2</sup>.

Early on they considered requiring the President to be only a “Citizen”<sup>3</sup>. Being very concerned about foreign intrigue and influence entering into the halls of power this was thought not to be a strong enough protection against foreign influence<sup>4</sup> on the person who would hold the singularly most powerful office under the proposed

<sup>1</sup> Constitution of the United States: [http://www.archives.gov/exhibits/charters/constitution\\_transcript.html](http://www.archives.gov/exhibits/charters/constitution_transcript.html)

<sup>2</sup> Timeline and various proposals and drafts of the U.S. Constitution:  
[https://en.wikipedia.org/wiki/Timeline\\_of\\_drafting\\_and\\_ratification\\_of\\_the\\_United\\_States\\_Constitution](https://en.wikipedia.org/wiki/Timeline_of_drafting_and_ratification_of_the_United_States_Constitution)

<sup>3</sup> Madison’s ‘Constitutional Convention Notes’: <https://archive.org/details/jamesmadisonsnot00scot>

<sup>4</sup> Federalist Papers – See and read the many papers about the concerns about ‘Foreign Influence’ on those who would govern under the new U.S. Constitution, especially in the executive branch: <http://usgovinfo.about.com/library/fed/blfedindex.htm>

new Constitution. Then as is mentioned in Madison's notes<sup>5</sup> of the Constitutional Convention proceedings, Alexander Hamilton at some points in time had proposed to the various delegates that for the office of President, that the person being simply and only a "Citizen" would be fine for the founding generation who were the "original Citizens", and who had shed their blood in the cause of forming the new nation, but that in the future after the new Constitution was adopted and once the founding generation was gone, the President would have to have stronger allegiance to the nation and be "born a Citizen"<sup>6</sup>, which today is more commonly called in U.S. Statutory Laws a "Citizen at or by Birth". Hamilton may have been concerned about those he possibly heard talking about and/or insisting on an even stronger eligibility clause which might have precluded him from ever becoming a President, since we know that Hamilton<sup>7</sup> was not born in the United States. But in the end he need not have worried about that since the grandfather clause covering the "original Citizens" would have exempted him from the ultimate much more restrictive 'birth status' term put into the new Constitution.

As the end product in Article II Section 1 Clause 5, the presidential eligibility clause<sup>8</sup> of our adopted and ratified Constitution of the United States shows that somewhat more restrictive term of simply being "born a Citizen", rather than being simply any "Citizen", was NOT accepted either as being strong enough to block foreign influence by birth on who would be a future President. And thus those who argue today that being "born a Citizen" is all that is required as to citizenship status to be eligible to run for the office of President are clearly wrong! The founders and framers considered it and it did not make it into the final adopted Constitution or into any of the ratified subsequent first 10 Amendments<sup>9</sup> put up to help get the new Constitution ratified by the several states. History shows that simply being "born a Citizen" was proposed by Hamilton and it was not accepted. What can be more demonstrative than that of "originalist" understanding and intent that simply being "born a Citizen" is NOT eligibility enough to be the President!

What even more restrictive term as to citizenship status did they choose and "Where" and "Who" did the delegates get the suggestion from? We learn from history and the records in our Library of Congress that in a letter<sup>10</sup> dated 25 Jul 1787 from **John Jay**<sup>11</sup> (who later became the first Chief Justice of the U.S. Supreme Court under the new Constitution) sent to **George Washington**<sup>12</sup>, the presiding President of the Constitutional Convention (and who had been the Commander in Chief of the Continental Army during the Revolutionary War and who later became the first President of the United States under the new Constitution), wherein John Jay suggested the much more restrictive term and "kind"<sup>13</sup> of Citizenship which is obtained only from Natural

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<sup>5</sup> Madison's notes compiled and edited by Max Farrand [1911] Vol.3: <http://oll.libertyfund.org/titles/farrand-the-records-of-the-federal-convention-of-1787-vol-3>

<sup>6</sup> Madison's notes compiled and edited by Max Farrand [1911] Vol.3 - See pg 619: <http://oll.libertyfund.org/titles/farrand-the-records-of-the-federal-convention-of-1787-vol-3>

<sup>7</sup> Hamilton not born in the USA – Born in the West Indies: [https://en.wikipedia.org/wiki/Alexander\\_Hamilton](https://en.wikipedia.org/wiki/Alexander_Hamilton)

<sup>8</sup> Presidential Eligibility Clause in U.S. Constitution - Article II Section 1 Clause 5: [http://press-pubs.uchicago.edu/founders/tocs/a2\\_1\\_5.html](http://press-pubs.uchicago.edu/founders/tocs/a2_1_5.html)

<sup>9</sup> Constitution of the United States and First Twelve Amendments: <http://press-pubs.uchicago.edu/founders/documents/v1ch1s9.html>

<sup>10</sup> John Jay letter of 25 Jul 1787 to George Washington: <https://www.scribd.com/doc/241491173/>

<sup>11</sup> John Jay was the first Chief Justice of U.S. Supreme Court: [https://en.wikipedia.org/wiki/John\\_Jay](https://en.wikipedia.org/wiki/John_Jay)

<sup>12</sup> George Washington was the Commander in Chief of Continental Army and was the first President of the United States under the new constitution: [https://en.wikipedia.org/wiki/George\\_Washington](https://en.wikipedia.org/wiki/George_Washington)

<sup>13</sup> The Five Kinds of Citizens Mentioned in the U.S. Constitution: <https://www.scribd.com/doc/11737124/Citizenship-Terms-Used-in-the-U-S-Constitution-The-5-Terms-Defined-Some-Legal-Reference-to-Same>

Law<sup>14</sup> and the Laws of Nature and Nature's Creator and not from positive, man-made, resolutions, statutory laws, treaties or amendments, that is requiring the future Presidents to be a "natural born Citizen"<sup>15</sup>, a person born in the country to parents (plural – father and mother) who were both Citizens (born or naturalized Citizens but both Citizens of some "kind") of the country when their child was born in the country. Born in the country of a father who is a Citizen of the country and the mother is a Citizen of the country form the Three Legged Stool Test<sup>16</sup> for a "natural born Citizen". Without either leg it cannot stand.

This Natural Law term provides for sole allegiance and unity of citizenship at birth to only one country. No "dual-Citizenship at birth" person would be permitted to be a future President and Commander in Chief of our military. Thus, the key "Who" that were the essential and key people in getting the Natural Law "natural born Citizen" term put into the adopted Constitution of the United States<sup>17</sup> are John Jay and George Washington. Knowing "Who" the key people were who put the "natural born Citizen" term into the new Constitution, and their backgrounds and roles in the revolution and in the formation and early governance of our new nation, will help us much more clearly understand the reason "Why" that Natural Law strongly restrictive 'status at birth term' of "natural born Citizen" was selected, instead of the less restrictive "born a Citizen" or the even less restrictive simply a "Citizen" terms. We will discuss this again later in the "Why" section of this paper.

**What:** The "What", of course, is the "**natural born Citizen**" term in the presidential eligibility clause in Article II, Section 1, Clause 5 of the United States Constitution<sup>8</sup>.

**When:** The summer of 1787<sup>2,18</sup>.

**Where:** The physical location "Where" they made the choices and decisions as to what went into our Constitution and what did not was at **Independence Hall** during the **Constitutional Convention** held in **Philadelphia, PA**.<sup>19</sup>

But "Where" intellectually did John Jay get the term "natural born Citizen" and his understanding of the strong check on foreign influence and restrictive citizenship "kind" it was? He got it from Natural Law and the enlightenment movement of Europe writing about the natural rights of man and about new forms of government of which the founders and framers were readers, students, and followers and in particular the preeminent legal treatise of the time on the principles of Natural Law, "The Law of Nations or Principles of Natural Law" by Emer de Vattel (1758/1775). That legal treatise was widely read and put to use by the founders and framers in justifying the revolution and writing the founding documents<sup>20</sup>.

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<sup>14</sup> Emer de Vattel's "Law of Nations or Principles of Natural Law" [1758/1175/1797]: <http://lonang.com/library/reference/vattel-law-of-nations/>

<sup>15</sup> Natural Law "natural born Citizen" definition per Emer de Vattel "Law of Nations or Principles of Natural Law" [1758/1775/1797] - Vol.1 Chap.19 Section 212: <http://lonang.com/library/reference/vattel-law-of-nations/vatt-119/>

<sup>16</sup> Three Legged Stool Test for Natural Born Citizenship: <https://www.scribd.com/doc/185258103/Three-Legged-Stool-Test-for-Natural-Born-Citizen-to-Constitutional-Standards>

<sup>17</sup> Constitution of the United States and First Twelve Amendments: <http://press-pubs.uchicago.edu/founders/documents/v1ch1s9.html>

<sup>18</sup> Constitutional Convention of 1787: [https://en.wikipedia.org/wiki/Constitutional\\_Convention\\_%28United\\_States%29](https://en.wikipedia.org/wiki/Constitutional_Convention_%28United_States%29)

<sup>19</sup> Independence Hall: [https://en.wikipedia.org/wiki/Independence\\_Hall](https://en.wikipedia.org/wiki/Independence_Hall)

<sup>20</sup> Use of Vattel's "Law on Nations or Principles of Natural Law" by 'Founders and Framers' such as Ben Franklin, Thomas Jefferson, and George Washington to justify the revolution and write the Founding Documents: <http://puzo1.blogspot.com/2010/04/benjamin-franklin-in-1775-thanks.html>

**Why:** When John Jay suggested via letter “to provide a strong check to the admission of Foreigners into the administration of our national government” in his 25 July 1787 letter<sup>10</sup> to George Washington, who was presiding over the Constitutional Convention in the summer of 1787, John Jay was telling George Washington, and by us reading that letter, telling all of us the “Why” he was suggesting to George Washington that the presidential eligibility clause be made much more restrictive. He wrote suggesting that in order to help prevent foreign influence on the future Presidents, who under the new Constitution would also be the Commander in Chief of our military, the new Constitution should “provide a strong check” against foreign influence via birth on the person who would be in command of our military. John Jay wrote “that the **Command in chief of the American armies shall not be given, nor devolve on, any but a natural born Citizen**”<sup>10</sup>. And since the President was going to be the Commander in Chief of our military the President had to be a “natural born Citizen”. It was a national security concern. That is “Why” the “natural born Citizen” term is in the presidential eligibility clause. The term was selected for national security protection reasons to specifically keep persons born with foreign citizenship and divided allegiances at birth, and/or aka dual-Citizens at birth, from ever constitutionally being eligible to be President and Commander in Chief of our military. We must respect and enforce the original understanding, meaning, and intent – the “Why”!

George Washington on 2 Sep 1787 replied<sup>21</sup> by letter to John Jay appreciating his “hint”. He passed along the recommendation to the Committee of Eleven which was responsible for the actual writing and updating the various drafts to be considered. And thus in the next draft of our U.S. Constitution two days later we see the “natural born Citizen” term in the presidential eligibility clause. Of course they had to include a ‘grandfather clause’ to exempt their current generation, the founding generation, since none of the “original Citizens” were “natural born Citizens”. The “natural born Citizens” are the children born in the country of “Citizens”. Most of the “original Citizens” were born British Subjects and were in effect self-naturalized into being “original Citizens” by being the founding members of the newly created nation via the 1776 Declaration of Independence and adhering to the Revolution. Historian David Ramsay of the founding generation wrote an excellent paper in 1789 on who were the “original Citizens”<sup>22</sup>

The “original Citizens” and future “naturalized Citizens” and “U.S. Citizens” of whatever “kind” can and would procreate the “natural born Citizens”, the children born in the country of Citizen parents<sup>14</sup>. A “natural born Citizen” obtains their citizenship via Natural Law at birth with combined soil “jus soli” and both parents “jus sanguinis” citizenship<sup>23</sup>. They need not point to any man-made law, constitutional amendment, or court ruling to prove they are Citizens of the USA. They are born with sole allegiance at birth to the USA and only the USA. They are by their very nature the largest group and “kind” of citizens of a nation. They are the three leaf clover<sup>24</sup> of kinds of Citizens, the “natural born Citizens”, not the four leaf clover kinds. Dual-Citizens at birth are the rare four leaf clover kind. But under our Constitution that does not bring them good luck as to eligibility to be President. The Constitution requires us to choose our President and Commander in Chief from the

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<sup>21</sup> Letter of reply to John Jay from George Washington thanking him for the hint to require “natural born Citizen” term in the ‘Presidential Eligibility Clause’ in our new constitution: On September 2, 1787 George Washington wrote a reply to John Jay in which he said, “I thank you for the hints contained in your letter.” And then two days later on September 4, 1787 the “natural born citizen” clause for presidential eligibility appeared in the next draft of the U.S. Constitution reported out from the Committee of Eleven of the convention delegates.

<sup>22</sup> Paper by David Ramsay on the manner of acquiring citizenship in the new United States: <https://www.scribd.com/doc/33807636/A-Dissertation-on-Manner-of-Acquiring-Character-Privileges-of-Citizen-of-U-S-by-David-Ramsay-1789>

<sup>23</sup> Venn Diagram showing a “natural born Citizen” gains ‘Sole Allegiance’ and ‘Unity of Citizenship’ at birth via being born on the soil of the USA and having both parents being Citizens of the USA when the child is born: <https://www.scribd.com/doc/44814496/Of-Trees-and-Plants-and-Basic-Logic-Citizen-at-Birth-NOT-Identical-to-Natural-Born-Citizen-by-CDR-Kerchner-Ret>

<sup>24</sup> Natural Born Citizens are The Three Leaf Clovers of Citizens – Not the Four Leaf Clovers: <https://www.scribd.com/doc/160107354/Natural-Born-Citizen-3-Not-4-Leaf-Clover-Type-of-Citizenship>

plentiful and ordinary three leaf clover variety of Citizens, not the more exotic or maybe more politically attractive four leaf clover kind. No dual-Citizen at birth or persons born with divided allegiances to two or more countries can ever constitutionally be eligible to be President and Commander in Chief of our military. That is what the founders and framers understood the Natural Law “natural born Citizen” term to mean and intended it to mean. That is the “originalist” understanding and meaning and intent of the term.

This strongly restrictive birth status term is a national security clause and it must be protected and it applies only to the office of the President and Commander in Chief, and per the last line of the 12<sup>th</sup> Amendment it was made applicable also to who can be the Vice-President<sup>9</sup>. We must protect this national security clause to prevent foreign influence innately as to who can be the Commander in Chief of our vast military power.

Man’s nature and the Laws of Nature have not changed. It was a truism back then to block access to persons born with foreign influence on them by birth from gaining access to the most powerful political office in our nation and it is a much more important truism today. We must support and defend the Constitution of the United States and in particular Article II Section 1 Clause 5 which is currently under repeated attack from politicians pushing ineligible candidates of various political stripes to gain access to the Oval Office. No matter how attractive a political candidate sounds or looks, we cannot allow them to violate the Constitution.

**How:** Via the **letter written 25 July 1787**<sup>10</sup> by John Jay to George Washington, the presiding President of the Constitutional Convention in Philadelphia, PA, in the summer of 1787.

**In conclusion**, persons of true honor and respect for our Constitution would not even try to double-talk their way into the Oval Office or VP slot by trying to convince the electorate that constitutionally a “Citizen” at birth is logically and identically exactly the same as a “natural born Citizen” at birth<sup>25</sup>. Adjectives mean something!

As demonstrated above in this paper, the founders and framers told us those two citizenship terms are not the same. How can we trust a person to uphold any other part of the Constitution if they violate Article II of it by their very running as a constitutionally ineligible candidate? Marco Rubio was a dual-Citizen at birth – Cuban via his foreign national Cuban parents and U.S. by place of birth. Marco Rubio<sup>26</sup> is not constitutionally eligible to be President or Vice-President. Ted Cruz was a tri-Citizen at birth – Cuban via his foreign national Cuban father, U.S. via his mother, and Canadian via his place of birth. Ted Cruz<sup>27</sup> is not constitutionally eligible to be President or Vice-President.

You may say, well a Canadian Citizen at birth or a Cuban Citizen at birth, well that’s not so bad. They sound like good people. They make promises that sound good for the country. They say they are going to restore the Constitution. Well good and honorable people don’t violate the U.S. Constitution in order to try and save it. If we keep allowing the political establishment and major media and cowardly Congress and Judiciary to keep moving the true understanding and meaning of “natural born Citizen” further away from originalist understanding, meaning, and intent, where will it stop? The next time it could be a child born in Saudi Arabia to a U.S. Citizen mother and an Iranian Citizen and National father.

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<sup>25</sup> Euler Logic Diagram showing the logical relationship between the different ‘kinds’ of U.S. Citizens:

<https://cdrkerchner.wordpress.com/2016/02/14/euler-logic-diagram-shows-logical-relationship-of-constitutional-article-ii-natural-born-citizens-to-other-type-citizens-of-the-united-states/>

<sup>26</sup> Marco Rubio Missing Two Legs! He Cannot Constitutionally Stand for President and Commander in Chief, or VP:

<https://cdrkerchner.wordpress.com/2016/02/13/marco-rubio-is-missing-two-legs-he-cannot-constitutionally-stand-for-pres-or-vp-he-fails-three-legged-stool-test-for-natural-born-citizen/>

<sup>27</sup> Ted Cruz is Missing Two Legs! He Cannot Constitutionally Stand for President and Commander in Chief, or VP:

<https://cdrkerchner.wordpress.com/2016/01/13/ted-cruz-is-missing-two-legs-the-three-legged-stool-test-for-natural-born-citizen/>



Look at what has happened to our country and the rule of law under the current ineligible defacto President. We cannot allow a future repeat of what we have experienced with the current defacto unconstitutional President. The constitutionally ineligible defacto President Obama was born with dual-citizenship and allegiance (British and U.S.) and with that he brought his questionable loyalties and his “Dreams from His Father” to fundamentally transform America, a father who was never a U.S. Citizen and in fact was never even an immigrant to this country. We are a nation of immigrants but Obama’s father was not one. But with his promises of hope and change the people ignored the Constitution and elected him anyway. And our hamstrung political party-controlled Electoral College<sup>28</sup> and cowardly Congress confirmed the election. And then of course finally our cowardly Supreme Court Chief Justice John Roberts swore him in. Obama is exactly the example and reason why we cannot allow a dual-citizen at birth, a tri-citizen at birth, or citizen of the world to gain access and control of the Oval Office ever again. We cannot trust promises that sound good. This is not about politics. It is about the Constitution and the Rule of Law.

We cannot allow precedence to be set by electing and swearing into office another constitutionally ineligible person for President and Commander in Chief, or Vice-President, no matter how politically attractive to you they are. We must take a stand on this. Do not support any constitutionally ineligible candidates. We must support and defend Article II of the U.S. Constitution or very soon we won’t have a Constitution, a Constitutional Republic, or a nation governed by the Rule of Law at all.

To contact the author and/or to read more of the author’s writings about the constitutional term “natural born Citizen” see links below:

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<http://www.ProtectOurLiberty.org>

<http://cdrkerchner.wordpress.com/>

<https://www.scribd.com/user/52640192/protectourliberty>

<https://www.scribd.com/doc/48856102/All-U-S-Presidents-Eligibility-Grandfather-Clause-Natural-Born-Citizen-Clause-or-Seated-by-Fraud>

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<sup>28</sup> Some comments about the true purpose of the Electoral College. Unfortunately the major political parties over the years have put into place in many states statutory laws mandating how the Electors from that state must vote (per said laws) which end up trumping their Oath to the Constitution to support and defend the Constitution. The political parties consider the Oath of Office taken by the Electors as nothing but ritual and the Electors are told to obey the state laws controlling how they must vote ... or else! They are no longer being allowed to carry out their constitutional oath and duties as originally intended per the Constitution as described in the Federalist Papers, and are under threat of individual and personal legal penalties, and/or removal from office, if they try to act on behalf of defending the Constitution as the supreme law of the land. If the Electoral College was allowed to act as originally intended as a stop-check against constitutional mistakes made by the political parties mislead people in the popular vote by voting for and selecting someone who is NOT constitutionally eligible, the Electors would stop things right then and there in that constitutional body and process when it convened, insuring that only a constitutionally eligible candidate is “elected” by the Electors and forwarded to the Congress for its confirmation action, and if necessary demand and call for a new election to provide to the College for consideration only a constitutionally eligible candidate(s), to allow the people and political parties to right their constitutional wrong. But the Electoral College today is now totally ineffective and hamstrung by the political parties and laws they have gotten put in place in 27 states and is now nothing more than a rubber stamp of the election results and candidates, no matter how constitutionally flawed those politically-party-endorsed candidates and election results may be. We are being governed by the Political Parties, not the U.S. Constitution in this and many other areas. See these articles about the Electoral College for more information: <http://www.kerchner.com/protectourliberty/goatsledge/20081108%20Electoral%20College.pdf> and <http://www.historycentral.com/elections/Electoralcollgewhy.html>