

Why Ted Cruz Is Not a Natural Born Citizen

With Senator Ted Cruz (R-TX) having officially announced that he is a candidate for president, apologists have immediately hit their keyboards to declare that he “is constitutionally eligible to be president.” Those defenders are mistaken. The historical meaning of the term “natural born citizen” is *birth on U.S. soil to two U.S. citizen parents*. That was the definition understood and followed by the Founding Fathers, and the authors of the U.S. Constitution. By that definition, Cruz is ineligible to serve as president—as are Obama, Senator Marco Rubio (R-FL), Louisiana Governor Bobby Jindal, former Senator Rick Santorum (R-PA), and South Carolina Governor Nikki Haley. [73363]

Many claim that the 14th Amendment applies to Cruz, but the 14th Amendment *never even uses the term natural born citizen!* One cannot magically pretend that any time the generic word “citizen” is used in the Constitution, its Amendments, or federal legislation that it automatically *also* means “natural born citizen.” It does not. Any first year law student would receive a failing grade from his professor if he made such an argument. Claiming that the word “citizen” in legislation also means “natural born citizen” is as wrong-headed as claiming that wherever a city ordinance uses the term “automobile” it also means “truck” or “motorcycle.” *Words have meanings.*

Others note that federal law confers citizenship on persons born *outside* the United States, if both parents are U.S. citizens or if at least one citizen parent has resided in the United States for at least five years after age 14. But that law *only* confers “generic” U.S. citizenship. It does *not* state that such person would also be a *natural born citizen*. No one is arguing that Cruz is not a U.S. citizen. But he is not a natural born citizen.

Those who somehow believe the 14th Amendment “proves their case” should be told that Congressman John Bingham—who *authored that amendment*—said on the floor of the House of Representatives in 1862, “All from other lands, who by the terms of laws and a compliance with their provisions become naturalized, are adopted citizens of the United States; all other persons born within the Republic, *of parents owing allegiance to no other sovereignty* [italics added], are natural born citizens.” ***Read that again and let it sink in.*** In 1862, the members of Congress understood that a natural born citizen was someone born on U.S. soil to two U.S. citizen parents. Let it also sink in that no law has been passed since then to change the meaning of the term, nor has there been an amendment to the U.S. Constitution with regard to that issue.

In 1866 Bingham stated, “Every human being born within the jurisdiction of the United States *of parents not owing allegiance to any foreign sovereignty* [italics added] is, in the language of your Constitution itself, a natural born citizen.” Obama supporters—including attorneys filing briefs with the U.S. Supreme Court—have intentionally *omitted* the words “of parents” when quoting Bingham’s statement, in a shameful effort to mislead. Ask yourself, “Why would Obama-supporting attorneys have thought it might help their client if they omitted the words ‘of parents?’”

Yes, Cruz is a *citizen* of the United States, but he is not a *natural born citizen* because he was neither born “within the jurisdiction of the United States” nor “of parents [plural!] not owing allegiance to any foreign sovereignty.” Rafael Edward “Ted” Cruz was born in Calgary, Canada, and his father was a citizen of Cuba at the moment of his birth. By no stretch of the imagination can one claim Cruz was born on U.S. soil *and to two* U.S. citizen parents. In fact, Cruz was born with dual citizenship: U.S. and Canadian. (Some might even argue that he was also born with Cuban citizenship.)

In the 1885 U.S. Supreme Court case *Minor v. Happersett*, Chief Justice Morrison Waite wrote, “The Constitution does not, in words, say who shall be natural-born citizens. Resort must be had elsewhere to ascertain that. At common-law, with the nomenclature of which the framers of the Constitution were familiar, it was never doubted that all children born in a country *of parents who were its citizens* [italics added] became themselves, upon their birth, citizens also. These were natives, or natural-born citizens, as distinguished from aliens or foreigners. Some authorities go further and include as citizens children born within the jurisdiction without reference to the citizenship of their parents. As to this class there have been doubts, but never as to the first.” That is, there was agreement by all legal scholars in 1885 that the term natural born citizen meant “born in the United States to two U.S.-citizen parents.” (A minority argued that the citizenship of the parents was not material but, without justification, Obama supporters—and now Cruz supporters—accept the less common interpretation.)

The Supreme Court has never ruled on the meaning of the term natural born citizen. It certainly had the *opportunity* to do so with the Obama eligibility challenge lawsuit *Kerchner v. Obama*, but the Justices declined to accept the case for review. One must ask *why* the court was afraid to accept the case for review if it would have put the issue to rest once and for all. The answer is that the court knew it would have to rule *against* Obama, and it was reluctant to do so—because it might have resulted in nationwide race riots. Because the Court chose not to hear *Kerchner*, the issue is again rearing its ugly head for Cruz (and perhaps for Rubio, Santorum, Jindal, and Haley if they enter the race).

Those who think they understand the issue should take a moment to read the actual presidential eligibility rule. Article II, Section 1, Clause 5 of the U.S. Constitution reads:

“No Person except a natural born Citizen, *or a Citizen of the United States, at the time of the Adoption of this Constitution* [italics added], shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.” Note the italicized “grandfather clause.” That text was made necessary after the term “born citizen” was changed to read “natural born citizen.” An *earlier* draft of the document read as follows:

“No Person except a Born Citizen shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.”

“Born Citizen” simply means born on U.S. soil—*without* regard to the citizenship of one’s parents. John Jay then wrote George Washington and asked that all presidents be required to be *natural born* citizens—that is, born on U.S. soil to two U.S. citizen parents. But simply making that change (“born” to “natural born”) would have been inadequate:

“No Person except a natural born Citizen shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.”

Why would that text be insufficient? The problem with that text was that neither George Washington nor John Adams (nor anyone else) was a natural born citizen! Those potential presidents age 35 or older who were born on U.S. soil (such as George Washington, who was born in Virginia) obviously could not have had U.S. citizen parents at the time of their births—because the nation did not yet exist. (Washington’s parents were citizens of Great Britain, as were the majority of the residents of the 13 colonies). In other words, it would be 35 years before anyone could serve as president! To allow for that problem, the *final* version read:

“No Person except a natural born Citizen, *or a Citizen of the United States, at the time of the Adoption of this Constitution* [italics added], shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.”

The italicized “grandfather clause” is essentially a “loophole” that means, “We can’t go without a president for decades while we wait for natural born citizens to reach age 35, so we will temporarily allow individuals who are *not* natural born citizens to serve as president, as long as they were present here in the colonies and became U.S. citizens in 1776 when the nation was founded.” Considering all of the above, it is clear that the U.S. Constitution prohibits Obama, former Senator Rick Santorum (R-PA), Senator Marco Rubio (R-FL), Louisiana Governor Bobby Jindal, South Carolina Governor Nikki Haley, and Senator Ted Cruz (R-TX) from serving as president.

Obama is actually the nation’s *second* illegal president. (The first illegal president was Chester A. Arthur, who hid from the public the fact that his father was *not* a U.S. citizen at Chester’s birth. Arthur even went so far as to burn his father’s documents—something that would not have been necessary if his father’s citizenship was irrelevant.) Regardless of where Obama was born, his father was *not* a U.S. citizen—if one assumes his father was the drunken Kenyan communist. Obama is therefore not a natural born citizen. (Of course, if Obama’s father was actually Frank Marshall Davis, his communist mentor in Hawaii, then Obama is a natural born citizen. Ironically, Obama’s efforts to hide the identity of his father are what caused the question of his eligibility to come up. Had he made it known from the start that Davis was his father, no one would have questioned whether he was a natural born citizen—but they would have better understood his resentment toward America, white people, Jews, Israel, and capitalism.)

Although Obama is hiding his past, the GOP candidates generally have not. Marco Rubio was born in Florida to Cuban citizen parents. He *is* a U.S. citizen but he is *not* a natural born citizen. Bobby Jindal and Nikki Haley were born in the United States to Indian citizen parents. They *are* U.S. citizens but are *not* natural born citizens. Rick Santorum's father was a citizen of Italy, and Rick is therefore only a "generic" U.S. citizen. Ted Cruz was born in Canada to an American mother and a Cuban father, and is also *not* a natural born citizen—although he *is* a U.S. citizen. (A Senator is not required to be a natural born citizen. Senators need only be citizens.)

None of this is to suggest that Cruz, Rubio, Jindal, Haley, or Santorum would not be good presidents. But the law is the law and the Constitution is the Constitution. Nowadays, of course, millions of Americans seem not to know what is *in* the Constitution, and others—including legislators and even Supreme Court Justices—seem not to *care* what is in the document or that it is routinely being violated. Nevertheless, it would be nice if the pundits would at least stop lying about history. Go ahead and lobby for an amendment to change the Constitution if you want to eliminate the natural born citizen requirement, but don't insult our intelligence by changing the meaning of a historical term simply because it suits your political purposes

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