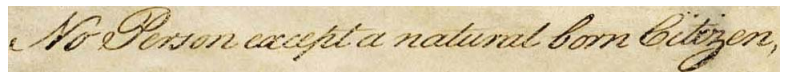


Natural-born-citizen clause

Status as a **natural-born citizen** of the United States is one of the eligibility requirements established in the United States Constitution for election to the office of President or Vice President. This requirement was intended to protect the nation from foreign influence.



Part of the constitutional provision as it appeared in 1787

The Constitution does not define the phrase *natural-born citizen*, and various opinions have been offered over time regarding its precise meaning. A 2011 Congressional Research Service report stated that

The weight of legal and historical authority indicates that the term "natural born" citizen would mean a person who is entitled to U.S. citizenship "by birth" or "at birth", either by being born "in" the United States and under its jurisdiction, even those born to alien parents; by being born abroad to U.S. citizen-parents; or by being born in other situations meeting legal requirements for U.S. citizenship "at birth". Such term, however, would not include a person who was not a U.S. citizen by birth or at birth, and who was thus born an "alien" required to go through the legal process of "naturalization" to become a U.S. citizen.^[1]

The natural-born-citizen clause has been mentioned in passing in several decisions of the United States Supreme Court and lower courts dealing with the question of eligibility for citizenship by birth, but the Supreme Court has never directly addressed the question of a specific presidential or vice-presidential candidate's eligibility as a natural-born citizen.

Constitutional provisions

Section 1 of Article Two of the United States Constitution sets forth the eligibility requirements for serving as president of the United States:

“No person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, 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 Twelfth Amendment states, "No person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States." The Fourteenth Amendment does not use the phrase *natural-born citizen*. It does provide that "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."

Under Article One of the United States Constitution, representatives and senators are only required to be U.S. citizens.^{[2][3]}

The first several presidents prior to Martin Van Buren, as well as potential presidential candidates, were born as British subjects in British America before the American Revolution.^[4]

Rationale

The purpose of the natural born citizen clause is to protect the nation from foreign influence. Alexander Hamilton, a Convention delegate from New York, wrote in Federalist No. 68 about the care that must be taken in selecting the president: "Nothing was more to be desired than that every practicable obstacle should be opposed to cabal, intrigue, and corruption. These most deadly adversaries of republican government might naturally have been expected to make their approaches from more than one quarter, but chiefly from the desire in foreign powers to gain an improper ascendant in our councils."^[5] St. George Tucker, an early federal judge, wrote in 1803 that the natural born citizen

clause is "a happy means of security against foreign influence", and that "The admission of foreigners into our councils, consequently, cannot be too much guarded against."^[6] Delegate Charles Pinckney of South Carolina said in a speech before the Senate, "to insure experience and attachment to the country, they have determined that no man who is not a natural born citizen, or citizen at the adoption of the Constitution, of fourteen years residence, and thirty-five years of age, shall be eligible."^[7]

There was also a perception that a usurper from the European aristocracy could potentially immigrate and buy his way into power.^[1] Constitutional scholar Akhil Amar points out that the laws of England specifically allowed a foreign-born head of state, and that this had been an unhappy experience for many who had immigrated to the United States.^[1]

Constitutional Convention

The Constitution does not explain the meaning of "natural born".^[8] On June 18, 1787, Alexander Hamilton submitted to the Convention a sketch of a plan of government.^[9] The sketch provided for an executive "Governour" but had no eligibility requirements.^[10]

At the close of the Convention, Hamilton conveyed a paper to James Madison he said delineated the Constitution that he wished had been proposed by the Convention; he had stated its principles during the deliberations. Max Farrand wrote that it "...was not submitted to the Convention and has no further value than attaches to the personal opinions of Hamilton."^[11] Article IX, section 1 of Hamilton's draft constitution provided:

"No person shall be eligible to the office of President of the United States unless he be now a Citizen of one of the States, or hereafter be born a Citizen of the United States."^[12]

On July 25, 1787, John Jay wrote to George Washington, presiding officer of the Convention:

Permit me to hint, whether it would not be wise and seasonable to provide a strong check to the admission of Foreigners into the administration of our national Government, and to declare expressly that the Command in chief of the American army shall not be given to, nor devolve on, any but a natural born Citizen.^[13]</ref>

While the Committee on Detail originally proposed that the President must be merely a citizen as well as a resident for 21 years, the Committee of Eleven changed "citizen" to "natural born citizen" without recorded explanation after receiving Jay's letter. The Convention accepted the change without further recorded debate.^[14]

Naturalization Act of 1790

The Naturalization Act of 1790 stated that "the children of citizens of the United States that may be born beyond sea, or out of the limits of the United States, shall be considered as natural born citizens". (*Act to establish a uniform Rule of Naturalization*, 1st Congress, 2nd session, March 26, 1790, 1 Stat.L. 103 at 104, 2 Laws of the U.S., ed. Bioren & Duane (1815) 82 at 83.) This act was superseded by the Naturalization Act of 1795, which did not mention the phrase *natural born citizen*.

Interpretations of the clause

19th- and early-20th-century interpretations

After the original Constitution was ratified, various people opined about the meaning of this clause.

U.S. government officials in the Civil War era

John Bingham

John Bingham stated in the House of Representatives in 1862:

The Constitution leaves no room for doubt upon this subject. The words 'natural born citizen of the United states' appear in it, and the other provision appears in it that, "Congress shall have power to pass a uniform system of naturalization." To naturalize a person is to admit him to citizenship. Who are *natural born citizens* but those born within the Republic? Those born within the Republic, whether black or white, are citizens by birth—natural born citizens.^[15]

He reiterated his statement in 1866:

Every human being born within the jurisdiction of the United States of parents not owing allegiance to any foreign sovereignty is, in the language of your Constitution itself, a natural-born citizen; but, sir, I may be allowed to say further that I deny that the Congress of the United States ever had the power, or color of power to say that any man born within the jurisdiction of the United States, not owing a foreign allegiance, is not and shall not be a citizen of the United States. Citizenship is his birthright and neither the Congress nor the States can justly or lawfully take it from him.^[16]

Edward Bates

In 1862, Secretary of the Treasury Salmon P. Chase sent a query to Attorney General Edward Bates asking whether or not "colored men" can be citizens of the United States. The question arose because the Coast Guard had detained a schooner commanded by a free "colored man" who claimed he was a citizen of the United States. If he were a U.S. citizen the boat could be released, but otherwise—the Civil War then being fought—it would be confiscated. No information about the man's birth or parentage was provided. Bates responded on November 29, 1862, with a 27-page opinion—considered of such importance that the government published it not only in the official volumes of Attorney-General opinions but also as a separate booklet^[17]—concluding, "I conclude that the *free man of color*, mentioned in your letter, if born in the *United States*, is a citizen of the United States..."^[18] [italics in original] In the course of that opinion, Bates commented at some length on the nature of citizenship, and wrote,

... our constitution, in speaking of *natural born citizens*, uses no affirmative language to make them such, but only recognizes and reaffirms the universal principle, common to all nations, and as old as political society, that the people born in a country do constitute the nation, and, as individuals, are *natural* members of the body politic.^[19] [italics in original]

In another opinion, dated September 1, 1862, Bates dealt with a question from the Secretary of State, of whether a person born in the U.S. to two non-citizens, who is taken with them back to their country, could, years later, re-enter the United States as of right, as a U.S. citizen. Bates wrote:

I am quite clear in the opinion that children born in the United States of alien parents, who have never been naturalized, are native-born citizens of the United States, and, of course, do not require the formality of naturalization to entitle them to the rights and privileges of such citizenship. I might sustain this opinion by a reference to the well-settled principle of the common law of England on this subject; to the writings of many of the earlier and later commentators on our Constitution and laws; ... and lastly to the dicta and decisions of many of our national and state tribunals. But all this has been well done by Assistant Vice Chancellor Sandford, in the case of *Lynch vs. Clarke*, and I forbear. I refer to his opinion

for a full and clear statement of the principle, and of the reasons and authorities for its support.^[20]

Other U.S. government officials

In 1854, the U.S. Secretary of State, William Learned Marcy (1786–1857), wrote to John Y. Mason, the U.S. Minister to France.^[21]

In reply to the inquiry ... whether "the children of foreign parents *born in the United States*, but brought to the country of which the father is a subject, and continuing to reside within the jurisdiction of their father's country, are entitled to protection as citizens of the United States", I have to observe that it is presumed that, according to the common law, any person born in the United States, unless he be born in one of the foreign legations therein, may be considered a citizen thereof until he formally renounces his citizenship. There is not, however any United States statute containing a provision upon this subject, nor, so far as I am aware, has there been any judicial decision in regard to it.

In 1875, U.S. Attorney General Edwards Pierpont was presented with a query from the Secretary of State, Hamilton Fish. A young man, surnamed Steinkauler (his first name was never mentioned), had been born in Missouri in 1855, a year after his father was naturalized a U.S. citizen. When he was four years old, his father returned to Germany with him and both had stayed there ever since. The father has relinquished his American citizenship. Now the young man is 20 years old and about to be drafted into the German army. What is this young man's situation as a native-born American citizen? After studying the relevant legal authorities, Pierpont wrote:^[22]

Under the treaty [of 1868 with Germany], and in harmony with American doctrine, it is clear that Steinkauler the father abandoned his naturalization in America and became a German subject (his son being yet a minor), and that by virtue of German laws the son acquired German nationality. It is equally clear that the son, by birth, has American nationality, and hence he has two nationalities, one natural, the other acquired. Young Steinkauler is a native-born American citizen. There is no law of the United States under which his father or any other person can deprive him of his birthright. He can return to America at the age of 21, and in due time, if the people elect, he can become President of the United States.... I am of opinion that when he reaches the age of 21 years he can then elect whether he will return and take the nationality of his birth, with its duties and privileges, or retain the nationality acquired by the act of his father.

Most of this passage, including the line about being elected President, was quoted approvingly by the U.S. Supreme Court in its 1939 decision in *Perkins v. Elg*,^[23] a case involving a similar question about an American-born girl in Sweden.

In 1904, Frederick van Dyne (1861–1915), the Assistant Solicitor of the US Department of State (1900–1907) (and subsequently a diplomat), published a textbook, *Citizenship of the United States*, in which he said:^[24]

There is no uniform rule of international law covering the subject of citizenship. Every nation determines for itself who shall, and who shall not, be its citizens.... By the law of the United States, citizenship depends, generally, on the place of birth; nevertheless the children of citizens, born out of the jurisdiction of the United States, are also citizens.... The Constitution of the United States, while it recognized citizenship of the United States in prescribing the qualifications of the President, Senators, and Representatives, contained no definition of citizenship until the adoption of the 14th Amendment, in 1868; nor did Congress attempt to define it until the passage of the civil rights act, in 1866.... Prior to this time the subject of citizenship by birth was generally held to be regulated by the common law, by which all persons born within the limits and allegiance of the United States were deemed natural-born citizens.

It appears to have been assumed by the Supreme Court of the United States in the case of *Murray v. The Charming Betsy* (1804) 2 Cranch (6 U.S.) 64, 119, 2 L.Ed. 208, 226, that all persons born in the United States were citizens thereof. ... In *M'Creery v. Somerville* (1824) 9 Wheat. (22 U.S.) 354, 6 L.Ed. 109, which concerned the title to land in the state of Maryland, it was assumed that children born in that state to an alien

were native-born citizens of the United States. The Federal courts have almost uniformly held that birth in the United States, of itself, confers citizenship.

Treatises and academic publications

In an 1825 treatise, *A View of the Constitution of the United States of America*, William Rawle (1759–1836), formerly the U.S. Attorney for Pennsylvania (1791–1799), wrote that

The citizens of each state constituted the citizens of the United States when the Constitution was adopted. ... [He] who was subsequently born the citizen of a State, became at the moment of his birth a citizen of the United States. Therefore every person born within the United States, its territories or districts, whether the parents are citizens or aliens, is a natural born citizen in the sense of the Constitution, and entitled to all the rights and privileges appertaining to that capacity. Under our Constitution the question is settled by its express language, and when we are informed that ... no person is eligible to the office of President unless he is a natural born citizen, the principle that the place of birth creates the relative quality is established as to us.^[25]

During an 1866 House debate James F. Wilson quoted Rawle's opinion, and also referred to the "general law relating to subjects and citizens recognized by all nations" saying

...and that must lead us to the conclusion that every person born in the United States is a natural-born citizen of such States, except it may be that children born on our soil to temporary sojourners or representatives of foreign Governments, are native-born citizens of the United States.^[26]

An English-language translation of Emerich de Vattel's 1758 treatise *The Law of Nations* (original French title: *Le Droit du gens*), stating that "The natives, or natural-born citizens, are those born in the country of parents who are citizens", was quoted in 1857 by Supreme Court justice Peter Vivian Daniel in a concurring opinion in *Dred Scott v. Sandford*,^[27] as well as by Chief Justice Melville Fuller in 1898 in his dissenting opinion in *United States v. Wong Kim Ark*.^[28]

Joseph Story (1779–1845), an Associate Justice of the U.S. Supreme Court (1811–1845), wrote in his 1840 guidebook to the Constitution, *A Familiar Exposition of the Constitution of the United States*, about the natural-born-citizen clause:

It is not too much to say that no one, but a native citizen, ought ordinarily to be intrusted with an office so vital to the safety and liberties of the people.^[29]

Those same words, using the same significant synonym "native citizen" for "natural born citizen" also appeared in his 1834 work *The constitutional class book: being a brief exposition of the Constitution of the United States: Designed for the use of the higher classes in common schools*.^[30]

Alexander Porter Morse, the lawyer who represented Louisiana in *Plessy v. Ferguson*,^[31] wrote in the *Albany Law Journal*:

If it was intended that anybody who was a citizen by birth should be eligible, it would only have been necessary to say, "no person, except a native-born citizen"; but the framers thought it wise, in view of the probable influx of European immigration, to provide that the president should at least be the child of citizens owing allegiance to the United States at the time of his birth. It may be observed in passing that the current phrase "native-born citizen" is well understood; but it is pleonasm and should be discarded; and the correct designation, "native citizen" should be substituted in all constitutional and statutory enactments, in judicial decisions and in legal discussions where accuracy and precise language are essential to intelligent discussion.^[32]

Court decisions

Although eligibility for the Presidency was not an issue in any 19th-century litigation, there have been a few cases that shed light on "natural-born citizen". The leading case is *Lynch v. Clarke*,^[33] which dealt with a New York law (similar to laws of other states at that time) that only a U.S. citizen could inherit real estate. The plaintiff, Julia Lynch, had been born in New York while her parents, both British, were briefly visiting the U.S., and shortly thereafter all three left for Britain and never returned to the U.S. The New York Chancery Court determined that, under common law and prevailing statutes, she was a U.S. citizen by birth and nothing had deprived her of that citizenship, notwithstanding that both her parents were not U.S. citizens or that British law might also claim her through her parents' nationality. In the course of the decision, the court cited the Constitutional provision and said:

Suppose a person should be elected president who was native born, but of alien parents; could there be any reasonable doubt that he was eligible under the Constitution? I think not. The position would be decisive in his favor, that by the rule of the common law, in force when the Constitution was adopted, he is a citizen.^[34]

And further:

Upon principle, therefore, I can entertain no doubt, but that by the law of the United States, every person born within the dominions and allegiance of the United States, whatever the situation of his parents, is a natural born citizen. It is surprising that there has been no judicial decision upon this question.^[35]

The decision in *Lynch v. Clarke* was cited as persuasive or authoritative precedent in numerous subsequent cases, including *In re Look Tin Sing*,^[36] on the issue of whether the child, born in the U.S., to two Chinese parents (who were prevented by federal law from becoming U.S. citizens) was a U.S. citizen, notwithstanding the nationality of his parents or the fact that he had traveled to China with them and not returned to the U.S. for many years. The federal court held in a decision written by U.S. Supreme Court Associate Justice Stephen J. Field) that he was a citizen by birth, and remained such despite his long stay in China, cited the decision in *Lynch v. Clarke* and described that case:

After an exhaustive examination of the law, the Vice-Chancellor said that he entertained no doubt that every person born within the dominions and allegiance of the United States, whatever the situation of his parents, was a natural-born citizen, and added that this was the general understanding of the legal profession, and the universal impression of the public mind.^[37]

The *Lynch* case was also cited as a leading precedent in the U.S. Supreme Court decision in *United States v. Wong Kim Ark* (1898),^[38] which similarly held that the child born in the United States of two Chinese parents was a birthright US citizen, and that decision also used the phrase "natural born".^[39]

In 1939 the U.S. Supreme Court issued its decision in the case of *Perkins v. Elg*, regarding a young woman, born in New York a year after her father became a naturalized U.S. citizen. However, when she was about four her parents returned to Sweden taking her with them, and they stayed in Sweden. At age 20, this young woman contacted the American diplomats in Sweden and, shortly after her 21st birthday, returned to the United States on a U.S. passport and was admitted as a U.S. citizen. Years later, while she was still in America, her father in Sweden relinquished his American citizenship, and, because of that, the Department of Labor (then the location of the Immigration & Naturalization Service) declared her a non-citizen and tried to deport her. The young woman filed suit for a declaratory judgment that she was an American citizen by birth. She won at the trial level, and at the circuit court—where she was repeatedly described as "a natural born citizen"^[40]—and finally in the U.S. Supreme Court, where the court decision quoted at length from the U.S. Attorney-General's opinion in *Steinkauler's Case* (mentioned above) including the comment that the person born in America and raised in another country could yet "become President of the United States".^[41]

Contemporary interpretations

Black's Law Dictionary

Black's Law Dictionary (9th Edition) defines "Natural Born Citizen" as "A person born within the jurisdiction of a national government".

Congressional Research Service

A memorandum to Congress dated April 3, 2009, written by the Congressional Research Service (CRS), states:

Considering the history of the constitutional qualifications provision, the common use and meaning of the phrase "natural-born subject" in England and in the Colonies in the 1700s, the clause's apparent intent, the subsequent action of the first Congress in enacting the Naturalization Act of 1790 (expressly defining the term "natural born citizen" to include a person born abroad to parents who are United States citizens), as well as subsequent Supreme Court dicta, it appears that the most logical inferences would indicate that the phrase "natural born Citizen" would mean a person who is entitled to U.S. citizenship "at birth" or "by birth".^[42]

According to an April 2000 report by the CRS, most constitutional scholars interpret the natural born citizen clause as to include citizens born outside the United States to parents who are U.S. citizens. This same CRS report also asserts that citizens born in the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands, are legally defined as "natural born" citizens and are, therefore, also eligible to be elected President.^[43]

Academic opinions

Relevance of place of birth

Gabriel J. Chin, Professor of Law at the University of Arizona, notes that persons born outside of the United States to U.S.-citizen parents have not always been born citizens.^{[44][45]} For example, foreign-born children of persons who became naturalized citizens between April 14, 1802 and 1854, were aliens. He also believes that children born in the Panama Canal Zone to at least one U.S. then-citizen between May 24, 1934, and August 4, 1937, when Congress granted citizenship to all such persons, were born without American citizenship. As a result, Chin argues, such persons (for constitutional and political purposes, most notably 2000 U.S. presidential candidate John McCain, born in the Canal Zone on August 28, 1936) may be considered "natural born" only if both

1. Congress possesses the authority to either

- grant not only citizenship (as is undisputed) but the more specific status of a "natural born" citizen, with an affirmative answer raising the question of whether it can also act to *remove* that status (and thereby disqualify individuals from the Presidency through action short of stripping them of their citizenship),

or

- issue "declarations" regarding the meaning of preexisting law (in this case, U.S. citizenship law between the aforementioned dates) and having binding authority, a claim likely to violate separation of powers given the Constitution's provisions in Article III that "[t]he judicial Power of the United States[] shall be vested in one supreme Court[] and in such inferior Courts as the Congress may from time to time ordain and establish" (Section 1) and that "[t]he judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority" (Section 2)

and

2. the statute (currently codified at 8 U.S.C. § 1403[a]) – which states only that "any person [fitting the above description] is declared to be a citizen of the United States" and neither

- expressly claims that its declaration (whether a grant or an interpretation) has retroactive rather than merely prospective effect (contrast the locution "to have been a citizen of the United States [from birth]")
nor
- in any way mentions "natural born" status (instead conferring or recognizing the preexistence only of "citizen[ship]" generally) –
in fact grants or recognizes citizenship from birth, let alone status as a natural born citizen (to whatever extent the requirements of that status exceed those for citizenship from birth).

Chin believes the statute to fall short of this standard, although he criticizes the "gap" that it leaves as poor policy.

Relevance/irrelevance of citizenship status of parents

In a 2008 article published by the *Michigan Law Review* Lawrence Solum, Professor of Law at the University of Illinois, stated that "there is general agreement on the core of [the] meaning [of the Presidential Eligibility Clause]. Anyone born on American soil whose parents are citizens of the United States is a 'natural born citizen'".^[46] In April 2010, Solum republished the same article as an online draft, in which he clarified his original statement so that it would not be misunderstood as excluding the children of one citizen parent. In a footnote he explained, "based on my reading of the historical sources, there is no credible case that a person born on American soil with one American parent was clearly not a 'natural born citizen'." He further extended natural born citizenship to all cases of *jus soli* as the "conventional view".^[47] Although Professor Solum stated elsewhere that the two-citizen-parents arguments "weren't crazy", he believes "the much stronger argument suggests that if you were born on American soil that you would be considered a natural born citizen."^[1]

Ronald Rotunda, Professor of Law at Chapman University, has remarked "There's [*sic*] some people who say that both parents need to be citizens. That's never been the law."^[48]

Polly Price, Professor of Law at Emory University, has commented "It's a little confusing, but most scholars think it's a pretty unusual position for anyone to think the natural born citizen clause would exclude someone born in the U.S."^[1]

Professor Chin concurred with that assessment, stating "there is agreement that 'natural born citizens' include those made citizens by birth under the 14th Amendment."^[49]

Similarly, Eugene Volokh, Professor of Law at UCLA, found "quite persuasive" the reasoning employed by the Indiana Court of Appeals, which had ruled "that persons born within the borders of the United States are 'natural born Citizens' for Article II, Section 1 purposes, regardless of the citizenship of their parents".^{[50][1]}

Daniel Takaji, Professor of Law at Ohio State University, agrees the citizenship status of a U.S.-born candidate's parents is irrelevant.^[51]

Qualification through satisfaction of either disjunct

G. Edward "Ted" White, Professor of Law at the University of Virginia, states the term refers to anyone born on U.S. soil *or* anyone born on foreign soil to American citizen parents.^[52]

Eligibility challenges

Standing in eligibility challenges

Several courts have ruled that private citizens do not have standing to challenge the eligibility of candidates to appear on a presidential election ballot.^[53] Alternatively, there is a statutory method by which the eligibility of the president-elect of the United States to take office may be challenged in Congress.^[54]

Some legal scholars assert that, even if eligibility challenges are nonjusticiable in federal courts, and are not undertaken in Congress, there are other avenues for adjudication, such as an action in state court in regard to ballot

access.^[55] ^[56]

Presidential candidates whose eligibility was questioned

Every president to date was either a citizen at the adoption of the Constitution in 1789 or born in the United States; of those not in the former group, every president except two (Chester A. Arthur and Barack Obama) had two U.S.-citizen parents. Some presidential candidates were not born in a U.S. state or lacked two U.S.-citizen parents.[□] In addition, one U.S. vice president (Albert Gore) was born in Washington, D.C., and another (Charles Curtis) was born in the Kansas Territory. This does not necessarily mean that these officeholders or candidates were ineligible, only that there was some controversy about their eligibility, which may have been resolved in favor of eligibility.^[57]

Chester A. Arthur

Chester A. Arthur (1829–1886), 21st president of the United States, was rumored to have been born in Canada.^[58]^[59] This was never demonstrated by his Democratic opponents, although Arthur Hinman, an attorney who had investigated Arthur's family history, raised the objection during his vice-presidential campaign and after the end of his presidency, publishing a book on the subject.^[60] Arthur was born in Vermont to a Vermont-born mother and a father from Ireland, who was naturalized as a U.S. citizen in 1843, 14 years after Chester was born. Despite the fact that his parents took up residence in the United States somewhere between 1822 and 1824,^[61] Arthur additionally began to claim between 1870 and 1880^[62] that he had been born in 1830, rather than in 1829, which only caused minor confusion and was even used in several publications.^[63] Arthur was sworn in as president when President Garfield died after being shot.

Christopher Schürmann

Christopher Schürmann (born 1848 in New York) entered the Labor primaries during the 1896 presidential election. His eligibility was questioned in a *New York Tribune* article, because he was born to alien parents of German nationality. It was stated that "various Attorney-Generals of the United States have expressed the opinion that a child born in this country of alien parents, who have not been naturalized, is, by the fact of birth, a native-born citizen entitled to all rights and privileges as such." But due to a lack of any statute on the subject, Schürmann's eligibility was, "at best an open question, and one which should have made [his] nomination under any circumstances an impossibility," because questions concerning his eligibility could have been raised after the election.^[64]

Charles Evans Hughes

The eligibility of Charles Evans Hughes (1862–1948) was questioned in an article written by Breckinridge Long, one of Woodrow Wilson's campaign workers, and published on December 7, 1916 in the *Chicago Legal News*— a full month *after* the U.S. presidential election of 1916, in which Hughes was narrowly defeated by Woodrow Wilson. Long claimed that Hughes was ineligible because his father was not yet naturalized at the time of his birth and was still a British citizen. Observing that Hughes, although born in the United States, was also (according to British law) a British subject and therefore "enjoy[ed] a dual nationality and owe[d] a double allegiance", Long argued that a *native born* citizen was not *natural born* without a unity of U.S. citizenship and allegiance and stated: "Now if, by any possible construction, a person at the instant of birth, and for any period of time thereafter, owes, or may owe, allegiance to any sovereign but the United States, he is not a 'natural-born' citizen of the United States."^[65]

Barry Goldwater

Barry Goldwater (1909–1998) was born in Phoenix, in what was then the incorporated Arizona Territory of the United States. During his presidential campaign in 1964, there was a minor controversy over Goldwater's having been born in Arizona when it was not yet a state.^[58]

George Romney

George Romney (1907–1995), who ran for the Republican party presidential nomination in 1968, was born in Mexico to U.S. parents.^{[66][67]} Romney's grandfather had emigrated to Mexico in 1886 with his three wives and children after the U.S. federal government outlawed polygamy. Romney's monogamous parents retained their U.S. citizenship and returned to the United States with him in 1912.^[68] Romney never received Mexican citizenship, because the country's nationality laws had been restricted to *jus sanguinis* statutes due to prevailing politics aimed against American settlers.^[citation needed]

Lowell Weicker

Lowell Weicker (born 1931), the former Connecticut senator, representative, and governor, entered the race for the Republican party nomination of 1980 but dropped out before voting in the primaries began. He was born in Paris, France, to parents who were U.S. citizens. His father was an executive for E. R. Squibb & Sons and his mother was the Indian-born daughter of a British general.^{[67][69]}

Róger Calero

Róger Calero (born 1969 in Nicaragua) was a Socialist Workers Party candidate in 2004 and 2008.^[70] Because he was not a natural born citizen of the United States, Calero was ineligible to become president, so James Harris, the Socialist Workers Party presidential candidate from 2000, stood in on the ticket in nine states where Calero could not be listed. In 2004, Calero received 3,689 votes,^[71] and Harris received 7,102 additional votes.^[72] Calero also ran in 2008, with Harris again standing in for Calero in several states.^[73] Calero was on the ballot in five states, where he received 7,209 votes; Harris received an additional 2,424 votes.^[74]

John McCain

John McCain (born 1936), who ran for the Republican party nomination in 2000 and was the Republican nominee in 2008, was born at Coco Solo Naval Air Station^{[[75][76][77][78][79]} in the Panama Canal Zone. McCain never released his birth certificate to the press or independent fact-checking organizations, but did show it to *Washington Post* reporter Michael Dobbs, who wrote "a senior official of the McCain campaign showed me a copy of [McCain's] birth certificate issued by the 'family hospital' in the Coco Solo submarine base".^[1] A lawsuit filed by Fred Hollander in 2008 alleged that McCain was actually born in a civilian hospital in Colon City, Panama.^{[80][81]} Dobbs wrote that in his autobiography, *Faith of My Fathers*, McCain wrote that he was born "in the Canal Zone" at the U.S. Naval Air Station in Coco Solo, which was under the command of his grandfather, John S. McCain Sr. "The senator's father, John S. McCain Jr., was an executive officer on a submarine, also based in Coco Solo. His mother, Roberta McCain, has said that she has vivid memories of lying in bed listening to raucous celebrations of her son's birth from the nearby officers' club. The birth was announced days later in the English-language Panamanian American newspaper."^{[82][83][84][85]}

The former unincorporated territory of the Panama Canal Zone and its related military facilities were not regarded as United States territory at the time,^[86] but 8 U.S.C. § 1403^[87], which became law in 1937, retroactively conferred citizenship on individuals born within the Canal Zone on or after February 26, 1904, and on individuals born in the Republic of Panama on or after that date who had at least one U.S. citizen parent employed by the U.S. government or the Panama Railway Company; 8 U.S.C. § 1403^[87] was cited in Judge William Alsup's 2008 ruling, described below. A March 2008 paper by former Solicitor General Ted Olson and Harvard Law Professor Laurence H. Tribe opined that McCain was eligible for the Presidency.^[88] In April 2008, the U.S. Senate approved a non-binding

resolution recognizing McCain's status as a natural-born citizen.^[89] In September 2008, U.S. District Judge William Alsup stated *obiter* in his ruling that it is "highly probable" that McCain is a natural-born citizen from birth by virtue of 8 U.S.C. § 1401^[90], although he acknowledged the alternative possibility that McCain became a natural-born citizen retroactively, by way of 8 U.S.C. § 1403^{[87][91]}.

These views have been criticized by Professor Chin, who argues that McCain was at birth a citizen of Panama and was only retroactively declared a born citizen under 8 U.S.C. § 1403^[87], because at the time of his birth and with regard to the Canal Zone the Supreme Court's Insular Cases overruled the Naturalization Act of 1795, which would otherwise have declared McCain a U.S. citizen immediately at birth.^[92] The U.S. State Department's *Foreign Affairs Manual* states that children born in the Panama Canal Zone at certain times became U.S. nationals without citizenship.^[93] It also states in general that "it has never been determined definitively by a court whether a person who acquired U.S. citizenship by birth abroad to U.S. citizens is a natural-born citizen [...]"^[94] In *Rogers v. Bellei* the Supreme Court only ruled that "children born abroad of Americans are not citizens within the citizenship clause of the 14th Amendment", and didn't elaborate on the *natural-born* status.^{[95][96]} Similarly, legal scholar Lawrence Solum concluded in an article on the *natural born citizen* clause that the question of McCain's eligibility could not be answered with certainty, and that it would depend on the particular approach of "constitutional construction".^[97] The urban legend fact checking website Snopes.com considers McCain's eligibility "undetermined".^[98]

Barack Obama

Barack Obama (born 1961), 44th president of the United States, was born in Honolulu, Hawaii, to a U.S. citizen mother and a British subject father from what was then the Kenya Colony of the United Kingdom (which became the independent country of Kenya in 1963). Before and after the 2008 presidential election, arguments were made that he is not a natural-born citizen. On June 12, 2008, the Obama presidential campaign launched a website to counter what it described as smears by his opponents, including conspiracy theories challenging his eligibility.^[99] The most prominent issue raised against Obama was the claim made in several lawsuits that he was not actually born in Hawaii. In two other lawsuits, the plaintiffs argued that it was irrelevant whether he was born in Hawaii,^[100] but argued instead that he was nevertheless not a *natural-born* citizen because his citizenship status at birth was governed by the British Nationality Act 1948.^[101] Most of the cases have been dismissed because of the plaintiff's lack of standing; however, several courts have given guidance on the question.

A three-member Indiana Court of Appeals stated: "Based upon the language of Article II, Section 1, Clause 4 and the guidance provided by *Wong Kim Ark*, we conclude that persons born within the borders of the United States are 'natural born Citizens' for Article II, Section 1 purposes, regardless of the citizenship of their parents." *Ankeny v. Governor of Indiana* (Ind.App., Nov 12, 2009) 916 N.E.2d 678 at 688^[1] Administrative Law Judge Michael Malihi in Georgia decided a group of eligibility challenge cases saying "The Indiana Court rejected the argument that Mr. Obama was ineligible, stating that the children born within the United States are natural born citizens, regardless of the citizenship of their parents. ... This Court finds the decision and analysis of *Ankeny* persuasive."^[102] Federal District Judge John A Gibney, Jr. wrote in his decision in the case of *Tisdale v. Obama*, "The eligibility requirements to be President of the United States are such that the individual must be a "natural born citizen" of the United States ... It is well settled that those born in the United States are considered natural born citizens. See, e.g. *United States v. Ark* [sic] ..." ^[103]

On October 31, 2008, Hawaii Health Director Dr. Chiyome Fukino issued a statement saying, "I ... have personally seen and verified that the Hawai'i State Department of Health has Sen. Obama's original birth certificate on record in accordance with state policies and procedures."^{[53][104]} On July 27, 2009, Dr. Fukino issued an additional statement saying, "I ... have seen the original vital records maintained on file by the Hawaii State Department of Health verifying Barack Hussein Obama was born in Hawaii and is a natural-born American citizen."^[105]

Attempts to prevent Obama from participating in the 2012 Democratic primary election in several states failed.^{[106][107][108][109]}

Potential presidential candidates whose eligibility is questioned

Ted Cruz

Ted Cruz (born Rafael Edward Cruz in 1970) is a Republican United States Senator from Texas who has publicly expressed interest in running for president in the 2016 United States presidential election.^{[110][111]} Cruz was born in Calgary, Alberta, Canada,^[112] to a "U.S. citizen mother and a Cuban immigrant father." Although there are some uncertainties about the exact definition of "natural born citizen," Professor Chin believes that Cruz "likely" qualifies for the office.^[113]

Constitutionality of the Natural-born-citizen Clause

In 2012, Abdul Karim Hassan, "a labor lawyer in Queens," and Guyana-born naturalized U.S. citizen, filed several unsuccessful lawsuits claiming that the natural-born-citizen clause violated the Equal Protection Clause of the 14th Amendment, arguing it was a form of discrimination based on national origin.^[114]

Proposed constitutional amendments

More than two dozen proposed constitutional amendments have been introduced in Congress to relax the restriction.[□]

Two of the more well known were introduced by Representative Jonathan Bingham in 1974, to allow for Secretary of State Henry Kissinger to become eligible,[□] and the Equal Opportunity to Govern Amendment by Senator Orrin Hatch in 2003, to allow eligibility for Governor of California Arnold Schwarzenegger.[□] The Bingham amendment would have also made clear the eligibility of those born abroad to U.S. parents,[□] while the Hatch one would have allowed those who have been naturalized citizens for twenty years to be eligible.[□]

All proposals to relax the restriction have failed.

Notes

[2] U.S. Constitution: Article 1, Section 2, Clause 2: Qualifications of Members

[3] U.S. Constitution: Article 1, Section 3, Clause 3: Qualifications of Senators

[4] Martin Van Buren (<http://www.ourwhitehouse.org/prespgs/mvanburen.html>), National Children's Book and Literacy Alliance.

[8] Han, William. " Beyond Presidential Eligibility: The Natural Born Citizen Clause as a Source of Birthright Citizenship (http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1596785)", *Drake Law Review*, Vol. 58, No. 2, 2010, p. 462.

[9] Pryor, Jill A. "The Natural-Born Citizen Clause and Presidential Eligibility: An Approach for Resolving Two Hundred Years of Uncertainty". *97 Yale Law Journal* 881, 889 (1988)http://yalelawjournal.org/images/pdfs/pryor_note.pdf;

[10] http://avalon.law.yale.edu/18th_century/debates_618.asp

[11] 3 M. Farrand, The Records of the Federal Convention of 1787, at 619 ([http://memory.loc.gov/cgi-bin/ampage?collId=llfr&fileName=003/llfr003.db&recNum=622&itemLink=r?ammem/hlaw:@field\(DOCID+@lit\(fr0032\)\)#0030003&linkText=1](http://memory.loc.gov/cgi-bin/ampage?collId=llfr&fileName=003/llfr003.db&recNum=622&itemLink=r?ammem/hlaw:@field(DOCID+@lit(fr0032))#0030003&linkText=1)).

[12] 3 Farrand, at 629 ([http://memory.loc.gov/cgi-bin/ampage?collId=llfr&fileName=003/llfr003.db&recNum=632&itemLink=r?ammem/hlaw:@field\(DOCID+@lit\(fr0032\)\)#0030003&linkText=1](http://memory.loc.gov/cgi-bin/ampage?collId=llfr&fileName=003/llfr003.db&recNum=632&itemLink=r?ammem/hlaw:@field(DOCID+@lit(fr0032))#0030003&linkText=1)).

[13] Heard, Alexander; Nelson, Michael (1987). *Presidential Selection* (http://books.google.com/books?id=n1wJ_vGjkSQC), Duke University Press. p. 123 (http://books.google.com/books?id=n1wJ_vGjkSQC&pg=PA123). Retrieved April 24, 2011. (the word *born* is underlined in the quoted letter<ref> Letter from John Jay to George Washington, 25 July, 1787 (<http://wwwapp.cc.columbia.edu/ldpd/jay/image?key=columbia.jay.10627&p=1&level=1>)

[14] Han, William. " Beyond Presidential Eligibility: The Natural Born Citizen Clause as a Source of Birthright Citizenship (http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1596785)", *Drake Law Review*, Vol. 58, No. 2, 2010, pp. 462–463.

[15] *Congressional Globe* 37.2 (1862), p. 1639 (<http://memory.loc.gov/cgi-bin/ampage?collId=llcg&fileName=059/llcg059.db&recNum=680>).

[16] *Congressional Globe* 39.1 (1866) p. 1291 (<http://memory.loc.gov/cgi-bin/ampage?collId=llcg&fileName=071/llcg071.db&recNum=332>). Stated again during a House debate in 1872; cf. *Congressional Globe* 42.2 (1872), p. 2791 (<http://memory.loc.gov/cgi-bin/ampage?collId=llcg&fileName=104/llcg104.db&recNum=106>).

[17] 10 Opinions of the U.S. Atty.Gen. [pages] 382–413, and separately as *Opinion of Attorney General Bates on Citizenship* (1863, Washington, DC, Govt. Printing Office) 27 pages.

[18] .

- [19] , Op. cit.
- [20] "Citizenship of children born in the United States of alien parents", 10 Op. US Atty-Gen. 328.
- [21] letter from Marcy to Mason, June 6, 1854, quoted from the manuscript, reprinted (with the emphasis shown) in John Bassett Moore, *A Digest of International Law [of the United States]*, vol. 3, sec. 373, pp. 276–277 (US House of Representatives, 56th Congress, 2d Session, Document no. 551; Washington, DC, Govt. Printing Office, 1906).
- [22] *Steinkauler's Case*, 15 Opinions of the US Attorneys-General 15 at 17–18 (June 26, 1875).
- [23] *Perkins v. Elg* (1939) 307 U.S. 325 at 329, 83 L.Ed. 1320 at 1824, 59 S.Ct. 884 at 888.
- [24] van Dyne, Frederick, *Citizenship of the United States* (1904, Rochester, NY, Lawyers Co-operative Publ'g Co.) pp. 3–12. With regard to the last sentence in the quotation, van Dyne discusses some peripheral court decisions, none dealing with conventional U.S. citizenship, but with the nationality of the child of a foreigner and a member of an independent American Indian tribe whose members were not ordinarily regarded as U.S. citizens.
- [26] James F. Wilson in: *Congressional Globe*, House of Representatives, 39th Congress, 1st Session, Washington 1866, p. 1117 (<http://memory.loc.gov/cgi-bin/ampage?collId=llcg&fileName=071/llcg071.db&recNum=158>).
- [31] *Plessy v. Ferguson* (<http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=163&invol=537>), 163 U.S. 537 (1896).
- [32] A.P. Morse, "Natural-Born Citizen of the United States: Eligibility for the Office of President", *Albany Law Journal*, vol. 66 (1904–1905)
- [33] NY Chanc.Ct., Nov 5, 1844; 1 Sandf.Ch. 583, 3 NY Leg.Obs. 236, 1844 WL 4804
- [34] Sandf. at 656, Leg.Obs. at 246–247
- [35] Sandf. at 663, Leg.Obs. at 250
- [36] D.Cal., Sep 29, 1884) 21 Fed. 905, 10 Sawyer's Rpts. 353
- [37] Fed at 909, Sawyer at 359–360
- [38] *U.S. v. Wong Kim Ark* (1898) 169 U.S. 649, 42 L.Ed. 890, 18 S.Ct. 456.
- [40] *Perkins v. Elg* (D.C. Cir. 1938) 69 U.S.App.D.C. 175, 99 F.2d 408.
- [41] *Perkins v. Elg* (1939) 307 U.S. 325 at 329, 83 L.Ed. 1320 at 1324, 59 S.Ct. 884 at 888.
- [42] 41131059 MoC Memo What to Tell Your Constituents in Answer to Obama Eligibility (<http://www.scribd.com/doc/41197555/41131059-MoC-Memo-What-to-Tell-Your-Constituents-in-Answer-to-Obama-Eligibility>)
- [45] Chin, Gabriel J. (2008), "Why Senator John McCain Cannot Be President: Eleven Months and a Hundred Yards Short of Citizenship" (<http://www.michiganlawreview.org/firstimpressions/vol107/chin.pdf>), 107 Mich. L. Rev. First Impressions 1
- [46] Solum, Lawrence B. (2008), *Originalism and the natural born citizen clause* (<http://www.michiganlawreview.org/assets/fi/107/solum.pdf>), 107 Mich. L. Rev. First Impressions 22
- [47] Lawrence B. Solum, "Originalism and the natural born citizen clause", revised draft version, April 18, 2010 (SSRN) (http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1263885&), p. 1, n. 3. However, other passages of his revised draft still imply U.S. citizenship of both parents; cf. i.a. pp. 3, 9, 11.
- [53] E.g. see *Robinson v. Bowen*, 567 F. Supp. 2d 1144 (N.D. Cal. 2008); *Hollander v. McCain*, 2008WL2853250 (D.N.H. 2008); *Berg v. Obama* (<http://docs.justia.com/cases/federal/district-courts/pennsylvania/paedce/2:2008cv04083/281573/20/>), 08-04083 (E.D. Pa. 2008).
- [54] *See* .
- [55] Tokaji, Daniel. "The Justiciability of Eligibility: May Courts Decide Who Can Be President?" (<http://www.michiganlawreview.org/firstimpressions/vol107/tokaji.htm>) *Michigan Law Review, First Impressions*, Volume 107, p. 31 (2008).
- [57] Spiro, Peter. "McCain's Citizenship and Constitutional Method" (<http://www.michiganlawreview.org/firstimpressions/vol107/spiro.htm>), *Michigan Law Review*, Volume 107, p. 208 (2008).
- [58] "Who Can Be President?" (<http://www.voanews.com/english/2008-07-29-voa79.cfm>), Voice of America News (July 29, 2008).
- [59] His mother, Malvina Stone Arthur, while a native of Berkshire, Vermont, moved with her family to Quebec, where she met and married the future president's father, William Arthur, on April 12, 1821. After the family had settled in Fairfield, Vermont, William Arthur traveled with his eldest daughter to East Stanbridge (Canada) in October 1830 and commuted to Fairfield on Sundays to preach. "It appears that he traveled regularly between the two villages, both of which were close to the Canadian border, for about eighteen months, holding two jobs" (cf. Thomas C. Reeves, "The Mystery of Chester Alan Arthur's Birthplace", *Vermont History* 38, Montpelier: Vermont Historical Society, p. 295), which may well explain the confusion about Arthur's place of birth, as perhaps did the fact that he was born in Franklin County, and thus literally within a day's walk of the Vermont–Quebec border (cf. William A. DeGregorio, *The Complete Book of U.S. Presidents*, Random House: 1993, pp. 307–08, ISBN 0-517-08244-6).
- [61] Regina, the first child of William and Malvina Arthur, was stillborn in Dunham, Quebec, on March 8, 1822. Their second child Jane was born March 14, 1824 in Burlington, Vermont, where the family had taken up residence. Thereafter the family relocated several times in Vermont, to Jericho (1825), Waterville (1827), and finally Fairfield (May 1828), where Chester A. Arthur was later born; cf. Thomas C. Reeves, "The Mystery of Chester Alan Arthur's Birthplace", *Vermont History* 38, Montpelier: Vermont Historical Society, pp. 294–5.
- [62] Thomas C. Reeves, *Gentleman Boss. The Life and Times of Chester Alan Arthur*, Newtown 1991, p. 5.
- [63] E.g. in an early biography of Presidents Garfield and Arthur;
- [64] "Is Mr. Schürmann eligible?", *New York Tribune*, October 2, 1896, in: Anonymous (ed.), *The Presidential Campaign of 1896. A Scrap-Book Chronicle*, New York 1925: Funk & Wagnalls, p. 130 sq. (<http://www.archive.org/stream/presidentialcam00catlgoog#page/n140/mode/2up>) (Note: The year of publication is given as 1888, though the election was eight years later. However, the author's introduction is dated 1925.)

- [65] Breckinridge Long (1916), "Is Mr. Charles Evans Hughes a 'Natural Born Citizen' within the Meaning of the Constitution?" (<http://www.scribd.com/doc/29744612/Breckinridge-Long-A-Natural-Born-Citizen-Within>), *Chicago Legal News* vol. 49, pp. 146–148 (Dec 7, 1916).
- [66] Lipsky, Seth (2009). *The Citizen's Constitution: An Annotated Guide* ([http://books.google.com/books?id=NRXv5N8c6aIC&pg=PA126&dq="George+Romney"+and+"natural+born+citizen"&hl=en&ei=n9S4TdO7AqfUiALL-aQ3&sa=X&oi=book_result&ct=result&resnum=1&ved=0CD8Q6AEwAA#v=onepage&q="George+Romney"+and+"natural+born+citizen"&f=false](http://books.google.com/books?id=NRXv5N8c6aIC&pg=PA126&dq=)). (Basic Books). p. 126.
- [67] Heard, Alexander and Nelson, Michael (1987). *Presidential Selection* ([http://books.google.com/books?id=n1wJ_vGjkSQC&pg=PA127&dq="George+Romney"+and+"natural+born+citizen"&hl=en&ei=n9S4TdO7AqfUiALL-aQ3&sa=X&oi=book_result&ct=result&resnum=5&ved=0CFUQ6AEwBA#v=onepage&q="George+Romney"+and+"natural+born+citizen"&f=false](http://books.google.com/books?id=n1wJ_vGjkSQC&pg=PA127&dq=)). (Duke University Press). p. 127.
- [69] Powell, Stewart (August 14, 1976). "Weicker May Not Be Eligible to Serve in High Position" (<http://news.google.com/newspapers?id=M41jAAAAIABAJ&sjid=uHkNAAAABAJ&pg=7076,2448134&dq=weicker+natural-born-citizen&hl=en>), *Nashua Telegraph*. United Press International.
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- [80] *Hollander v. McCain et al* (<http://dockets.justia.com/docket/new-hampshire/nhdce/1:2008cv00099/32089/>), Justia Dockets & Filings
- [81] Dr. Conspiracy (April 24, 2010), "John McCain's fake birth certificate" (<http://www.obamaconspiracy.org/2010/04/john-mccains-fake-birth-certificate/>), *Obama Conspiracy Theories*. Retrieved April 13, 2011<
- [82] Dobbs, Michael (May 2, 2008), "McCain's Birth Abroad Stirs Legal Debate : His Eligibility for Presidency Is Questioned" (http://www.washingtonpost.com/wp-dyn/content/article/2008/05/01/AR2008050103224_pf.html), *The Washington Post*
- [83] Article II of *Convention Between the United States and the Republic of Panama* (<http://www.bartleby.com/43/47.html>) states: "...the cities of Panama and Colon and the harbors adjacent to said cities, which are included within the boundaries of the zone above described, shall not be included within this grant".
- [84] A book written by the U.S. Navy includes the same reference: Link to relevant page in the book via Google Books: <http://books.google.com/books?id=pxooAAAAIAAJ&dq=panama%20canal%20colon&lr=&pg=PA192>
- [85] This map (<http://www.serve.com/CZBrats/Maps/CZaColon.jpg>) clearly shows that Colon is not part of the Canal Zone. Colon Hospital can be seen on the map at the North end of the island. (Source: <http://www.serve.com/~CZBrats/>)
- [86] *Foreign Affairs Manual*, 7 FAM §1116.1–4: "Despite widespread popular belief, U.S. military installations abroad and U.S. diplomatic facilities are not part of the United States within the meaning of the 14th Amendment. A child born on the premises of such a facility is not subject to U.S. jurisdiction and does not acquire U.S. citizenship by reason of birth."
- [87] <http://www.law.cornell.edu/uscode/8/1403.html>
- [88] "Lawyers Conclude McCain Is "Natural Born" (<http://www.cbsnews.com/stories/2008/03/28/politics/main3977521.shtml>), CBS News, Associated Press, March 28, 2008. Retrieved May 23, 2008.
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- [90] <http://www.law.cornell.edu/uscode/8/1401.html>
- [91] Cf. William Alsup, *Robinson v. Bowen*: Order denying preliminary injunction and dismissing action (<http://docs.justia.com/cases/federal/district-courts/california/candce/3:2008cv03836/206145/39/0.pdf>), September 16, 2008, p. 2; Alsup ruled that McCain was either a natural-born citizen by birth under 8 U.S.C. §1401c (<http://www.law.cornell.edu/uscode/8/1401.html>) or retroactively under 8 U.S.C. §1403(a) (http://www.law.cornell.edu/uscode/8/usc_sec_08_00001403----000-.html). (See also: , and .)
- [92] Chin, Gabriel J. (2008), "Why Senator John McCain Cannot Be President: Eleven Months and a Hundred Yards Short of Citizenship" (<http://papers.ssrn.com/sol3/papers.cfm?abstract-id=1157621>), *Michigan Law Review First Impressions*, Vol. 107, No. 1, (Arizona Legal Studies Discussion Paper No. 08-14)
- [93] "Nationality" in: 7 FAM 1111.3 (c) (<http://www.state.gov/documents/organization/86755.pdf>).
- [94] 7 FAM §1131.6–2, *Eligibility for Presidency*.
- [95] SCOTUS 401 U.S. 815, 828 (1971)
- [97] Lawrence B. Solum, "Originalism and the natural born citizen clause", *Michigan Law Review: First Impressions* 107, September 2008 (<http://www.michiganlawreview.org/assets/fi/107/solum.pdf>), p. 30.
- [98] "Is John McCain a natural-born citizen?" (<http://www.snopes.com/politics/mccain/citizen.asp>) *Snopes.com*, July 23, 2008. Retrieved March 27, 2011.

- [99] (. Retrieved March 9, 2011), quoting in excerpts from: ; see also: ; in a written oath to the State of Arizona, Obama further stated that he is a natural-born citizen (cf. Candidate Nomination Paper (<http://www.scribd.com/doc/11107727/Barack-Obama-Presidential-Candidate-Nomination-Paper-State-of-Arizona-2009>), *State of Arizona*, November 30, 2007).
- [100] *Leo C. Donofrio v. Nina Mitchell Wells* (SCOTUS 08A407) and *Cort Wrotnowski v. Susan Bysiewicz* (SCOTUS 08A469); in a conference decision the Supreme Court denied their applications without comment.
- [101] "The truth about Barack's birth certificate (<http://www.webcitation.org/5x3ktMveG>)", Obama for America. Retrieved March 9, 2011).
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- [105] "Hawaii reasserts Obama 'natural-born' citizen" (http://www.msnbc.msn.com/id/32180625/ns/politics-white_house), MSNBC, July 28, 2009
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External links

- John Yinger, Essay (<http://faculty.maxwell.syr.edu/jyinger/Citizenship/history.htm>) on the Presidential Eligibility clause and on the origins and interpretation of *natural born citizen*.
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