

How Hillary Could Win

At ThePostEmail.com Creg Maroney pointed out that Martin Van Buren has long been considered the first “natural born citizen” to serve as U.S. president. Van Buren was born in 1782 to two U.S. citizen parents. Every president who preceded Van Buren was born *before* the founding of the nation on July 4, 1776, and therefore could not have been born to U.S. citizen parents—*because there was no such thing as a U.S. citizen before that date.*

Article II, Section 1, Clause 5 of the U.S. Constitution 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 way the presidential eligibility requirement is worded is further proof that the term natural born citizen means born on U.S. soil to U.S. citizen parents. The key is the inclusion of the words, “*or a Citizen of the United States, at the time of the Adoption of this Constitution.*” That wording serves only *one* purpose: to *temporarily* allow individuals who are *not* natural born citizens to serve as president. Why was that exception necessary? When the Constitution was written, the only natural born citizens were *children*—who were born on or after July 4, 1776. *There would be no 35-year-old natural born citizens until July 4, 1811!* (George Washington, for example, was born in Virginia to two British subjects. Of course, the majority of the colonists were British subjects. George Washington became a “generic” U.S. citizen on July 4, 1776, but he was *not* a *natural born* citizen by virtue of the fact that he was born to non-U.S. citizens. *He was born a British subject.*)

An earlier draft of the Constitution required only that the president be a “born citizen,” without regard to the citizenship of the parents. John Jay (who later became the nation’s first Chief Justice of the Supreme Court) wrote George Washington and asked that the rule be strengthened so that individuals with “divided loyalties” could not serve as president. The drafters agreed, and the “born citizen” requirement was changed to a “natural born citizen” requirement. But changing the wording to “natural born citizen” also meant that no one could legally serve as president until July 4, 1811—when children born on July 4, 1776 turned 35 and met the presidential age requirement.

It was therefore necessary to add the “grandfather clause” to the presidential eligibility requirement: “*or a Citizen of the United States, at the time of the Adoption of this Constitution.*” *That* wording made it possible for Washington, Adams, Jefferson, and others to serve as president. They were *not* natural born citizens—because they were not born to U.S. citizen parents. But they *were* “Citizen(s) of the United States, at the time of the Adoption of this Constitution.” (Eventually, of course, everyone who was a “Citizen of the United States, at the time of the Adoption of this Constitution” would be dead, and only natural born citizens would then be allowed to serve as president.)

Those who argue that the term natural born citizen can mean born on foreign soil to only one citizen parent or born on U.S. soil to non-citizen parents need to explain why the grandfather clause was included in the presidential eligibility requirement. Why was that clause needed? Why is the requirement not as simple as:

“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.”

The grandfather clause is in the eligibility requirement *for a reason*. Those who argue that Obama (born in Kenya or Hawaii to a British-citizen father), Ted Cruz (born in Canada to a Cuban citizen father), Marco Rubio (born to two Cuban-citizen parents), Bobby Jindal (born to Indian-citizen parents), Rick Santorum (born to an Italian-citizen father), and Nikki Haley (born to Indian-citizen parents) can legally serve as president (or vice president) should be made to explain the purpose of the grandfather clause. *They will not be able to do so*. That is why the Obama eligibility challenge, *Kerchner v. Obama*, was refused by the Supreme Court. The Justices would have had to rule against Obama—because *they* understand the purpose of the grandfather clause. Fearing race riots, the Justices took the cowardly way out and refused to hear the case.

Those who argue that Cruz can serve as president even though he was born in Canada to a Cuban father should be asked, “Could Cruz serve as president if he had instead been born in Cuba to that same father?” In either case it would be birth on foreign soil to a non-American father. Would not both have to be treated the same way? Yet if no one had ever heard of Ted Cruz and someone had merely asked, “Could a person born in Cuba to a Cuban father and an American mother serve as president of the United States?” the answer would almost universally be, “No, of course not!”

Those who argue that only one parent needs to be a U.S. citizen should be reminded that (fair or not) it has been the case historically that the *father's* citizenship is passed on to the child. In addition, many pundits have referred to the text of laws and regulations that only use the term “citizen,” and do not even mention the term “natural born citizen.” If a law uses the term “citizen” but never uses the term “natural born citizen,” one cannot infer that the law pertains to both. One would flunk out of law school with such shoddy reasoning. (A law that refers to motorcycles, for example, does not also apply to truck and cars—even though all are vehicles.) Even worse, some of Obama’s attorneys have shamelessly omitted the words “of parents” when quoting legal texts and historical documents, in their attempts to argue on his behalf.

In 2008 the political pundits and the so-called “experts” declared that Obama was eligible to serve as president despite having been born a British subject. (In 1961 what is now known as Kenya was still a British Protectorate. Obama was therefore born a British subject—regardless of the place of his birth.) In addition, Obama’s supporters insisted he was not born in Kenya, because they knew most Americans would insist he could *not* serve then as president if he was foreign-born. In 2016 the “experts” now suddenly declare the opposite—that birth in Kenya would *not* have rendered Obama ineligible—because they also want to break the rules for Cruz, Rubio, Jindal, Santorum, and Haley. But, unlike Obama, Cruz made the mistake of admitting

(albeit reluctantly) that he was born in Canada; he had not bothered to create a fake birth certificate “proving” he was born in the United States and had not spent years developing a phony life story. As a result, the natural born citizen issue is back in the news. The Supreme Court will likely again lack the courage to rule on the question of the meaning of the term—because if it rules against Cruz it will necessarily also be ruling against Obama.

Of course, there is another possible scenario: The Democrats and media leftists push the issue, charge that Cruz, Rubio, et al. are ineligible, and file one or more lawsuits. (Congressman Alan Grayson (D-FL) has already stated that he will do so.) After it is too late for the Republicans to change their presidential and vice presidential nominees, the issue will make its way to the Supreme Court—which will necessarily rule the GOP candidate(s) ineligible. But wouldn’t that *also* render Obama’s entire eight-year reign illegitimate? No, not if Obama were to conveniently announce, “I just learned from DNA tests that my *real* father was Frank Marshall Davis—so I most certainly *did* have two U.S. citizen parents.” Checkmate. Obama’s far-left “legacy” is undisturbed; Hillary Clinton gains the White House; and the GOP’s rising stars join Bob Dole, John McCain, and Mitt Romney on the loser list.

Don’t say I didn’t warn you...

Don Fredrick
January 12, 2016