



Written by [Joe Wolverton, II, J.D.](#) on August 3, 2023

Vivek Ramaswamy: Not Constitutionally Eligible to Be President

Vivek Ramaswamy is many things: graduate of Harvard and Yale, hedge-fund hotshot, biotech entrepreneur, author, and popular speaker at conservative functions, but Vivek Ramaswamy is not legally eligible to be president.

This might come as a shock to many conservatives who seem to be drawn to the dashing young political ingenue, but shocking as it may be, it's true, and patriotic Americans should stand by our constitutional standards, even when they go contrary to our own presidential preference.

While it is not difficult to prove this fact, it is difficult to convince people to believe it and to be guided by it.

As Thucydides famously wrote in his history of the Peloponnesian War, "So little pains do most people take in the investigation of truth, accepting readily the first story that comes to hand."

Let me make it clear from the beginning that this is not a "hit piece." The Constitution should be no "respector of persons" and should be upheld as the supreme law of the land, period. Moreover, this article is meant to clarify, not vilify.

Unfortunately for the Constitution, we've already seen a man elected to the presidency who many believe wasn't a natural born citizen: Barack Obama.

That doesn't mean that we should abandon the natural-born citizen eligibility requirement. As with any other error, once discovered we can take steps to prevent its reoccurrence.

As for Ramaswamy, although he refuses to directly answer questions critical to determining whether he is a natural-born citizen, the public record provides enough information to make the call without his help.

We know that Ramaswamy was born in 1985. We know that his mother and father immigrated here from India about 40 years ago, according to information revealed in a *Washington Post* article from April 3, 2023.

The process for becoming a naturalized citizen typically takes about five years. I worked for several years as an immigration attorney and can personally attest to the truth of this.

If we subtract 40 from 2023, we get 1983. If allow a range of two years on both sides of the estimated year of immigration of Ramaswamy's parents — 1983 — that gives us a range of 1981-1985. Regardless of where the actual date of arrival in the United States falls, that range does not provide sufficient time for Ramaswamy's parents to have completed the necessary steps for naturalization before his birth in 1985.



AP Images
Vivek Ramaswamy



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There are many who have been taught to believe that simply being born in the United States makes one a natural-born citizen. In fact, it doesn't even make one a citizen, but that's a story for another time. For now, I'll lead you through the constitutional and legal history of the definition of natural-born citizen and its purpose as a presidential prerequisite.

Following the Founders' lead matters greatly. The provision they expressly included in the Constitution regarding this issue serves as a safeguard against constitutionally unqualified candidates seizing power, a pressing concern for every American, then and now. This holds true for anyone whose life and liberty might hang in the balance under the command of the individual named commander-in-chief of the U.S. military during a time of war.

Notably, the drafters of the Constitution felt no need to define the concept of natural-born citizen. The term "natural born citizen" finds its origins in the English concept of "natural born subject," which finds its roots in *Calvin's Case*, a 1608 legal decision.

Those labeled as natural born subjects were individuals whose allegiance to the king was innate, following the dictates of the "law of nature." According to the court's verdict, certain individuals owed allegiance to the king by the principles of natural law, entitling them to his protection even in the absence of a parliamentary decree.

During the colonial and early republic periods, those born under the British Crown could bear "double allegiance," akin to the modern understanding of "dual citizenship."

Our own Founding Fathers, most of whom were born within the territory controlled by the British Empire, were understandably apprehensive about the potential repercussions of divided loyalty, given they were fighting for their freedom from what many considered "the mother country." In response, they enshrined the "natural born citizen" requirement in the Constitution as a guard against what Gouverneur Morris in the Constitutional Convention called "the danger of admitting strangers into our public councils."

In his *View of the Constitution of the United States*, St. George Tucker eloquently explained the purpose of the provision:

That provision in the constitution which requires that the president shall be a native-born citizen (unless he were a citizen of the United States when the constitution was adopted) is a happy means of security against foreign influence, which, wherever it is capable of being exerted, is to be dreaded more than the plague. The admission of foreigners into our councils, consequently, cannot be too much guarded against; their total exclusion from a station to which foreign nations have been accustomed to attach ideas of sovereign power, sacredness of character, and hereditary right, is a measure of the most consummate policy and wisdom.

The source of the "natural born citizen" standard is known to us today. Swiss jurist Emerich de Vattel defined that term in his book *The Law of Nations*, published in 1758 and which, according to Benjamin Franklin, "had been continually in the hands of the members of our Congress."

Book I, Chapter 19, Section 212 of *The Law of Nations* reads:

Natural-born citizens, are those born in the country, of parents who are citizens. As the society cannot exist and perpetuate itself otherwise than by the children of the citizens,



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those children naturally follow the condition of their fathers, and succeed to all their rights. The society is supposed to desire this, in consequence of what it owes to its own preservation; and it is presumed, as matter of course, that each citizen, on entering into society, reserves to his children the right of becoming members of it. *The country of the fathers is therefore that of the children;* and these become true citizens merely by their tacit consent. We shall soon see, whether, on their coming to the years of discretion, they may renounce their right, and what they owe to the society in which they were born. I say, that, *in order to be of the country, it is necessary that a person be born of a father who is a citizen; for if he is born there of a foreigner, it will be only the place of his birth, and not his country.* [Emphasis added.]

De Vattel's definition of "natural born citizen" and the benefits derived from distinguishing between "natural born citizens" and "citizens" were well known to our Founding Fathers and, in fact, the very name of that high standard was copied verbatim by them into Article II of the U.S. Constitution wherein the qualifications for president of the United States are set out.

To see that such a qualification was universally agreed to by the delegates at the Constitutional Convention of 1787, one need only look to the record of that convention and note that the requirement that the president be a "natural born citizen" was mentioned only twice and was agreed to "*nem. con.*," a contraction of a Latin legal phrase meaning "without opposition."

Finally, for those reading this article and ready to throw down the 14th Amendment card, read a little more before you do.

Senator Jacob Merritt Howard (R-Mich.) was the principal architect of the citizenship clause of the 14th Amendment.

During the debates on the proposed amendment, Senator Howard insisted that the qualifying phrase "subject to the jurisdiction thereof" be inserted into Section 1 of the 14th Amendment being considered by his colleagues. Howard explained the need for the alteration:

This amendment which I have offered is simply declaratory of what I regard as the law of the land already, that every person born within the limits of the United States, and subject to their jurisdiction, is by virtue of natural law and national law a citizen of the United States. This will not, of course, include persons born in the United States who are foreigners, aliens, [or] who belong to the families of ambassadors or foreign ministers accredited to the Government of the United States, but will include every other class of persons.

Rationally, then, a person could not be "born in the United States" and be simultaneously a citizen and a "foreigner" or "alien" if the mere fact of nativity settled the question of citizenship!

Representative John Bingham also helped clarify the meaning of the "subject to the jurisdiction thereof" clause, declaring during the debate: "Every human being born within the United States *of parents not owing allegiance to any foreign sovereignty* is, in the language of your Constitution itself, a natural born citizen." (Emphasis added.)

It seems clear that the constitutional and legal history, as well as his own family history, demonstrate that although his policy positions seem to resonate with many Republicans, Vivek Ramaswamy is *not*



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constitutionally eligible to serve as president of the United States.



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