



## Letters to the Editor

### Natural Born Citizens? No!

I read Steve Byas' response, in the February 22, 2016 edition, to my Letter to the Editor in the January 25, 2016 edition regarding Rafael Eduardo (Ted) Cruz and Marco Rubio being ineligible for the presidency since neither are natural born citizens, as required in Article II, Section 1, Clause 5 of the U.S. Constitution. Byas' reply expresses several common misconceptions many have concerning the issue of natural born citizenship.

One misconception is that citizen and natural born citizen are one and the same, per Byas' quote of Judge Napolitano. The quote is accurate. However, the Founding Fathers did not consider a natural born citizen and citizen as one and the same. This is evident by the two distinct classifications they wrote in Article II, Section 1, Clause 5: "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." There would have been no need for the Founding Fathers to delineate between natural born citizen and citizen had they intended for the two classifications to have the same definition.

The claim that the Naturalization Act of 1790 defines a natural born citizen ignores some fundamental points. Congress has only the power to make a foreigner a citizen through the naturalization process per Article I, Section 8, Clause 4 (uniform rule of naturalization). Congress does not have the enumerated power to make a person a natural born citizen.

The Founding Fathers used the definition of natural born citizen from Emmerich de Vattel's Law of Nations. Section 212 states: "The natives, or natural-born citizens, are those born in the country, of parents who are citizens." This requires a person be born in the country to two citizen parents. Neither Cruz nor Rubio fulfills these requirements. Anytime someone cites a naturalization statute in defense of Cruz or Rubio, he or she is only confirming Cruz and Rubio are naturalized citizens, not natural born citizens, and therefore ineligible to be president.

Also, the 1790 Naturalization Act, referred to by Byas, was repealed by the 1795 Naturalization Act to replace the term "natural born citizen" in the 1790 Act with merely "Citizen" in the 1795 Act. The Founding Fathers realized the conflict between the 1790 Act and the definition they used, acknowledging that Congress cannot define a natural born citizen under the Constitution. As stated in *Marbury v. Madison* (1803), any act, rule, or regulation repugnant to the Constitution is null and void as soon as the act occurs. Since the definition of "natural born" was already defined by the Founding Fathers, any statute seeking a change would be null and void as soon as the legislation was passed, a fact understood by the Founding Fathers.

Additionally, in the case of Ted Cruz, his mother needed to submit a Consular Report of Birth Abroad form (CRBA), as required by federal statute, when Cruz's parents reentered the United States with him so that the U.S. government would recognize he was a naturalized citizen. There has been no confirmation his mother submitted the CRBA.

Moreover, if Cruz is truly a natural born citizen because his mother was a citizen when he was born, then there would have been no need for him to renounce his Canadian citizenship, which he did in 2014 when he decided to run for president.



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Daniel Hunt

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Steve Byas has it wrong about the constitutional definition of a “natural born citizen.” He cites the Naturalization Act of 1790, which uses the term, but fails to note that that act was repealed by the Naturalization Act of 1795, because it was misleading in its use of the term — both Madison and Washington signed off on the 1795 substitute act. If the Constitution’s original meaning is to be changed, it would require a constitutional amendment. In point of fact, both current major political parties tried a total of eight times between them, between 2003 and 2008, to get just such an amendment through Congress, and they failed each time even to get their proposals out of committee, such was the sensitivity around this issue. So they knew, and know, what a true “natural born citizen” is in constitutional terms.

Duane “Stan” Stanfield

Sent via e-mail



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