

Obama Eligibility Fact Sheet

Americans need to know 15 facts about Barack Obama's presidential eligibility:

1: The US Constitution specifies that US Presidents, born after 1787, must be natural born citizens.

The Constitution was adopted on Sept. 17, 1787. Persons who became US citizens *before* that date were exempt from the "natural born citizen" requirement. They may serve as President because they were *citizens* when the Constitution was adopted. However, if you were born *after* Sept. 17, 1787, being a US citizen is not enough -- you must be a natural born citizen in order to be eligible to serve as President.

2: The purpose of the Constitutional "natural born citizen" requirement was to exclude "foreigners", specifically persons born with foreign nationality, from the presidency.

In Alexander Hamilton's first draft of the US Constitution, a person must be "born a citizen" of the United States in order to be eligible to serve as President ([Works of Alexander Hamilton](#), p.407).

Someone who is "born a citizen" of the United States might acquire foreign citizenship, in addition to US citizenship, at birth. In 1787, if a British couple gave birth on US soil, their child was "born a citizen" of the United States and, at the same time, was also a British subject by birth.

In August 1787, the [Constitutional Convention](#) changed the presidential eligibility requirement from "born a citizen" to "natural born citizen". The purpose of this change was to exclude "foreigners" (foreign citizens) from the presidency (see John Jay's [Letter to George Washington dated 25 July 1787](#), and Joseph Story's [Commentaries on the Constitution](#), Section 1473).

Since the "natural born citizen" provision pertains only to one's status at the time of one's birth, it cannot exclude persons who become "foreigners" in later life. The provision, at most, only excludes persons who are "foreigners" when born. The change from "born a citizen" to "natural born citizen" makes little sense -- it does not provide any additional protection against foreign influence in the presidency; it does not exclude anyone not already excluded by the "born a citizen" requirement -- unless "natural born citizen" means the absence of foreign nationality at birth.

3: Barack Obama was born with foreign nationality, in addition to US citizenship.

President Obama was, at birth, a British citizen by descent from his father:

As a Kenyan native, Barack Obama Sr. was a British subject whose citizenship status was governed by *The British Nationality Act of 1948*. That same act governed the status of Obama Sr.'s children. ... In other words, at the time of his birth, Barack Obama Jr. was both a U.S. citizen (by virtue of being born in Hawaii) and a citizen of the United Kingdom and Colonies (or the UKC) by virtue of being born to a father who was a citizen of the UKC. ([FactCheck.org: Obama's Kenyan Citizenship](#))

4: Foreign nationality at birth is unprecedented among US presidents who were born after 1787.

With only two exceptions, every US President who was born after 1787 (a) was born in the United States, of parents who were both US citizens, and (b) was a citizen of the United States exclusively at the time of his birth. The two exceptions are Chester Arthur and Barack Obama. In 1880, Chester Arthur hid his British nationality from the public ([Historical Breakthrough: Chester Arthur](#)). The year 2008 was the first time in history that the United States *knowingly* elected a post-1787-born President who (a) was born of a non-US-citizen parent, and (b) was, at birth, a citizen of a foreign country ([Natural Born Presidency](#)).

5: The 1797 English-language edition of Vattel's Law of Nations defined "natural born citizens" as persons born in the country of their parents' citizenship. Such persons are, at birth, citizens of their birth-country exclusively and are not citizens at birth of any other country.

Emmerich de Vattel's [Law of Nations](#), published in 1758, was immensely popular and influential in America, especially after the American Revolution. The 1797 English translation of *Law of Nations* defined "natural born citizens" as those born in the country of their parents' citizenship:

The natives, or natural-born citizens, are those born in the country, of parents who are citizens ([Law of Nations, Book I](#), Section 212).

Although this definition appeared a decade after the US Constitution, it is nevertheless evidence of the meaning of "natural born citizen" during the time period in which the Constitution was written.

In [Scott v. Sandford](#) (1856), the Supreme Court characterized the 1797 *Law of Nations* definition of "natural born citizen" as "unexceptionable" (beyond criticism). Since his father was not a US citizen, President Obama is not a US "natural born citizen" according to this definition.

6: Throughout history, the US Supreme Court has consistently used the term "natural born citizen" only in reference to persons born in the United States, of US-citizen parents.

In every instance in which the Supreme Court has referred to an individual as a "natural born citizen", the individual was always US-born of US-citizen parents.

In [Perkins v. Elg](#) (1939), the Court regarded Miss Elg as a natural born citizen. She was born in the US. Her father was a naturalized US citizen. Her mother was a US citizen by marriage.

In [Kwock Jan Fat v. White](#) (1920), the Court referred to the plaintiff as a natural born citizen. He was born in the US. His father was a native-born US citizen. His mother was a US citizen by marriage.

In [U.S. v. Wong Kim Ark](#) (1898), Justice Gray cited an article, by Horace Binney, which used the term "natural born" in reference to the US-born child of a citizen but not the US-born child of an alien. In Binney's opinion, both children were US citizens, but only the child of a citizen was "natural born".

In [Minor v. Happersett](#) (1874), the Supreme Court described two classes of children. Each member of the first class was born in the US, of US-citizen parents. All other US-born children belonged to the second class. The Court used the term “natural born citizen” only in reference to the first class. The Court doubted whether members of the second class were even *citizens*, let alone *natural born citizens*.

...it was never doubted that all children born in a country of parents who were its citizens 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. ([Minor v. Happersett](#), 1874)

The phrase “as distinguished from aliens or foreigners” suggests that children who are *natural born citizens* are children who are not *foreigners* (foreign citizens) when they are born.

7: Throughout history, various authorities have expressed the opinion that “natural born citizen” refers only to persons born in the United States, of parents who are not foreign citizens.

John Bingham, the principal framer of the 14th Amendment, understood “natural born citizen” to mean US-born of parents not owing allegiance to any foreign power.

All from other lands, who ... become naturalized, are adopted citizens of the United States; all other persons born within the Republic, of parents owing allegiance to no other sovereignty, are natural-born citizens. ([Congressional Globe \(1862\), p.1639](#))

I find no fault with the introductory clause [of the [1866 Civil Rights Act](#)], which is simply declaratory of what is written in the Constitution, that 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. ([Congressional Globe \(1866\) p.1291](#))

As to the question of [Dr. Houard’s] citizenship I am willing to resolve all doubts in favor of a citizen of the United States. That Dr. Houard is a natural born citizen of the United States there is not room for the shadow of a doubt. He was born of naturalized parents within the jurisdiction of the United States, and by the express words of the Constitution, as amended to-day [to date], he is declared to all the world to be a citizen of the United States by birth. ([Congressional Globe \(1872\) p.2791](#))

According to an article published in the *American Law Review* (1884), parental citizenship is essential to natural born citizenship:

Birth [in the United States] ... does not *ispo facto* confer citizenship, and it is essential in order that a person be a native or natural born citizen of the United States, that his father be at the time of the birth of such person a citizen thereof, or in case he be illegitimate, that his mother be a citizen thereof at the time of such birth. ([Are Persons Born within the United States Ispo Facto Citizens Thereof?](#))

An article in *The New Englander* (1845) explained that all adult US citizens owe allegiance to the United States exclusively, but a natural born citizen is one who owes exclusive allegiance *from birth*:

The expression 'citizen of the United States' occurs in the clauses prescribing qualifications for Representatives, for Senators, and for President. In the latter the term 'natural born citizen' is used, and excludes all persons owing allegiance by birth to foreign states; in the other cases the word 'citizen' is used without the adjective, and excludes persons owing allegiance to foreign states, unless naturalized under our laws. ([The New Englander, Volume 3](#), p.414)

According to a legal analysis by attorney [Breckinridge Long](#), presidential nominee [Charles Evans Hughes](#) was not a natural born citizen because, although he was born on US soil, his father was not a US citizen:

It must be admitted that a man born on this soil, of alien parents, enjoys a dual nationality and owes a double allegiance. A child born under these conditions has a right to elect what nationality he will enjoy and to which of the two conflicting claims of governmental allegiance he will pay obedience. 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. If his sole duty is not to the United States Government, to the exclusion of all other governments, then, he is not a "natural born" citizen of the United States. ([Is Mr. Charles Evan Hughes a 'Natural Born Citizen'?](#))

Throughout US history, various legal sources have indicated that “natural born citizens” are persons born in the US, of parents who do not owe allegiance to any foreign power. Despite its detractors, this opinion is sufficiently well supported that it cannot be summarily dismissed.

8: No Federal court has ruled that birthplace alone determines “natural born citizen” status.

Prior to 1868, children acquired *federal* (United States) citizenship at birth either *directly* (by being born in the United States, of US-citizen parents) or *indirectly* (through *state* citizenship). Anyone who became a citizen of any *state* was automatically a citizen of the United States.

James McClure was born in the United States. Since his parents were aliens, he did not acquire US citizenship *directly*. If he had been born in Virginia, he would have acquired US citizenship *indirectly*. Virginia conferred state citizenship to anyone born within its borders. But, since he was born in a state (South Carolina) which had not enacted any state citizenship laws, Mr. McClure did not acquire state citizenship, and thus did not acquire United States citizenship, at birth.

Mr. Rodman hints that it would have been sufficient for James McClure to have been *born* in the United States -- he is mistaken. The law of the United States recognizes no such claim. The law of Virginia of 1792 does -- for, "all free persons *born* within the territory of this commonwealth," is deemed a citizen. The law of Virginia considers him as a son of the soil. An alien, as well as a citizen, may beget a citizen -- but the U. States' act does not go so far. A man must be naturalized to make his children such. ("Case of James McClure", [The Alexandria Herald, Vol. I, No. 37](#), October 7, 1811, page 2, left-most column)

The meaning of “natural born citizen” in the *federal* Constitution is a *federal* question. Although a few *state* courts (for example, *Lynch v. Clark*, [Ankeny v. Governor of Indiana](#), and [Farrar et. al. v. Obama](#)) have rendered opinions on this matter, the *federal* courts have yet to rule on it:

Lynch v. Clarke [a New York State case] is the only [antebellum](#) [pre-Civil War] decision ... that clearly finds that [jus soli](#) per *Calvin's Case* determines United States citizenship. Whatever light the case provides, though, should be adjusted by the fact that it is the unreviewed opinion of a single state-court judge and that shortly thereafter, in *Ludlum v. Ludlum*, that state's highest court, all justices concurring, spoke differently, saying that birthright citizenship depended on parentage rather than the "boundaries of the place." ([Birthright Citizenship and Civic Minimum](#), 2007)

9: The 14th Amendment defines citizens, not natural born citizens.

The 14th Amendment citizenship clause defines a class of people called the *14th Amendment citizenship class*. You are a member of this class only if (a) you were born or naturalized in the United States, and (b) you were subject to US jurisdiction at the time of your birth or naturalization.

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. ([14th Amendment Citizenship Clause](#))

If you belong to this class, the 14th Amendment declares that you are a US *citizen*. It does not say, one way or the other, whether you are a *natural born citizen*. The term “natural born citizen” is not found anywhere in the 14th Amendment.

If you do not belong to the 14th Amendment citizenship class, you might receive US citizenship from laws enacted by Congress, but you do not receive US citizenship from the 14th Amendment.

During the 1866 Congressional debates, the framers of the 14th Amendment explained that the word “jurisdiction”, as used in the 14th Amendment, means *sole* and *complete* jurisdiction, i.e., not subject to any foreign power.

Sen. Lyman Trumbull: The provision is, that "all persons born in the United States, and subject to the jurisdiction thereof, are citizens." That means "subject to the complete jurisdiction thereof." What do we mean by "complete jurisdiction thereof?" Not owing allegiance to anybody else. That is what it means.

Sen. Jacob Howard: [I] concur entirely with the honorable Senator from Illinois [Trumbull], in holding that the word "jurisdiction," as here employed, ought to be construed so as to imply a full and complete jurisdiction on the part of the United States ... ([What 'Subject to the Jurisdiction Thereof' Really Means](#)).

In 1884, the Supreme Court affirmed that, in order to acquire 14th Amendment citizenship by birth, one must be born in the United States and must not owe “allegiance to any foreign power” at birth:

The main object of the opening sentence of the fourteenth amendment was to settle the question, upon which there had been a difference of opinion throughout the country and in this court, as to the citizenship of free negroes, ([Scott v. Sandford](#), 19 How. 393;) and to put it beyond doubt that all persons, white or black, and whether formerly slaves or not, born or naturalized in the United States, and owing no allegiance to any alien power, should be citizens of the United States and of the state in which they reside. ([Elk v. Wilkins](#))

In 1885, [Thomas F. Bayard](#), while serving as the United States Secretary of State under President Grover Cleveland, ruled that the US-born son of German parents was not a 14th Amendment citizen. Since his parents were German citizens, the boy was, at birth, "subject to a foreign power" and "not subject to the jurisdiction of the United States" ([The Nation, Vol.59, No.1521](#), p.134).

President Obama's citizenship status, at birth, was "governed" by the laws of a foreign country, thus he was not subject to *sole* and *complete* US jurisdiction at birth. He may have acquired US citizenship from laws enacted by Congress, but he did not receive US citizenship from the 14th Amendment.

10: In U.S. v. Wong Kim Ark, the Supreme Court ruled that Mr. Wong was a US citizen. The Court did not rule, one way or the other, whether he was a natural born citizen.

In [U.S. v. Wong Kim Ark](#) (1898), the Supreme Court found that the United States has 14th Amendment "jurisdiction" over US-born children of Chinese immigrant parents having "permanent domicil and residence in the United States". The Court *ruled* that such children were 14th Amendment *citizens*. The Court did not *rule* whether they were *natural born citizens*.

The [Burlingame-Seward Treaty of 1868](#), between the United States and China, contains a provision recognizing "the inherent and inalienable right" of permanently-domiciled Chinese immigrants to change their "home and allegiance". This provision is not found in other US treaties. Although Wong's parents were barred from becoming US *citizens*, they could, by changing their "home and allegiance", become US *nationals*, in which case their US-born children would not necessarily owe allegiance to any foreign power at birth ([Objectively Gray](#)).

President Obama may have received US citizenship from laws enacted by Congress; but since his father was never permanently domiciled in the United States, the President did not receive US citizenship from the *Wong Kim Ark* ruling.

11: There is currently no Federal statute which specifies who is, or who is not, a natural born citizen.

In 1790, Congress passed the [Naturalization Act of 1790](#), in which foreign-born children of American parents were "considered as" natural born citizens. In 1795, Congress replaced the 1790 Act with the [Naturalization Act of 1795](#), in which the words "natural born" were deleted, leaving just "citizens".

After 1790, Congress never again passed any law containing the term “natural born citizen”. (In 2008, the US Senate passed Resolution 511 declaring John McCain to be a “natural born citizen”, but the resolution was non-binding and had no legal effect). Today, US law, specifically [Title 8 Section 1401](#), defines those who are U.S. *citizens* at birth, but does not define those who are *natural born citizens*. The term “natural born citizen” does not appear anywhere in any existing federal statute.

12: No branch or agency of the federal government has vetted Obama’s eligibility.

Neither Congress nor any Federal agency has considered whether Obama is, or is not, a natural born citizen. According to a [Congressional Research Service memo](#), “there is no specific federal agency or office that ‘vets’ candidates for federal office as to qualifications or eligibility prior to election.”

13: In 18th-century England, only those persons born on English soil, of parents owing actual allegiance to the king, were “natural-born” in fact; all others were deemed “natural-born” by law.

In 18th century England, persons became natural-born subjects either “by birth or by act of Parliament” (Francis Bacon, [Case of the Post-Nati of Scotland](#), p.649). Natural-born subjects *by birth* were persons who were born on English soil, to parents who were under the *actual* obedience (allegiance) of the English king:

All those are natural born subjects, whose parents, at the time of their birth, were under the actual obedience of our king, and whose place of birth was within his dominions. (Timothy Cunningham, *A New and Complete Law Dictionary*, 1771, p.95; also, Matthew Bacon, [A New Abridgement of the Law – Vol. 1](#), 1736, p.77)

Children born in England, of alien parents, were statutory “denizens” ([House of Commons, April 1604](#)). Such children were, at birth, *naturalized* by statute and, like all other naturalized subjects, were natural-born subjects *by act of Parliament*. However, as Judge Yelverton explained in 1608, Parliament does not have the power to turn anyone into a *real* natural-born subject. Parliament may *deem* someone to be natural-born, but cannot cause anyone to be a natural-born subject *in fact*:

A parliament may make a man to be accompted as naturalised, and conclude every man to say but that he is so, but it can never make a man to be so indeede (Yelverton, as quoted by Bruce Galloway, *The Union of England and Scotland*, 2003, p.157)

Naturalization – whether by statute or by petition – is a “fiction of law” which has no effect except in countries consenting to that fiction (Timothy Cunningham, *A New and Complete Law Dictionary*, 1771, “Naturalization”).

All persons born on English soil (except children of foreign ambassadors and alien enemies) were natural-born subjects, regardless of whether their parents were subjects or aliens. English-born children of alien parents were statutory *denizens*; they were *deemed* to be natural-born subjects *by a fiction of law*. Only those born in a particular place, of parents owing *actual* allegiance to the sovereign of that place, were natural-born *in fact*.

14: President Obama has a duty to ask the Supreme Court to resolve the doubts concerning his eligibility to hold office.

Throughout US history, there has been an ongoing debate over the meaning of “natural born citizen”. A widely-held modern-day opinion is that anyone born on US soil is a natural born citizen. But throughout history, an opposing opinion has asserted that you are not a natural born citizen unless, at the time of your birth, both of your parents were US citizens (or at least not citizens of any foreign country).

Until the Supreme Court settles this dispute, there is doubt concerning the “natural born citizen” status of persons (such as Obama) who were born in the United States, of a foreign-citizen parent.

All candidates for federal office bear the burden of proof concerning their eligibility to hold office. They have an obligation to *conclusively* establish their eligibility *before* taking office (see third paragraph in [Dr. Edwin Vieira: Obama Must Stand Up Now or Step Down](#)).

Presidential candidates that were born in the United States, to US-citizen parents, are definitely, without doubt, natural born citizens. The “natural born citizen” status of all other presidential candidates is in doubt. These in-doubt candidates have an obligation to ask the Supreme Court for a declaratory judgment resolving the doubts concerning their presidential eligibility.

15: Until the Supreme Court decides his “natural born citizen” status, President Obama cannot legally swear that he is eligible to hold office.

One may swear only to that which one knows to be a fact. One cannot swear to something which is mere opinion or belief, or which is subject to controversy, uncertainty or doubt. State officials cannot legally accept a sworn statement declaring President Obama to be a natural born citizen, because any such statement is patently false. It declares, as fact, something which is known to be uncertain and subject to doubt ([Obama Guilty of False Swearing](#)).

For a more detailed examination of the above facts, see [Eligibility Primer](#).