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Addendum to #2

Addendum to Christopher Booth's Challenge of Ted Cruz's filing to be on New Hampshire's Ballot

Candidates have filed to be on the ballot for the Presidential Primary in New Hampshire and the Ballot Commission is set to consider any challenges to those filings on September 24th. Two of those challenges contend that Senator Ted Cruz, who, indisputably, was born in Calgary, Canada, not in the United States, is not a "natural born" citizen, and is not eligible to be President according to the Constitution's eligibility requirements as specified in Art. 2 sec. 1 cl. 5 of the Constitution, "No person except a natural born citizen...shall be eligible to the Office of President." He should not be on New Hampshire's Presidential Primary Ballot.

It's worth examining whether Ted Cruz is a naturalized citizen since he was born outside of the United States or a natural born citizen with Presidential eligibility because his mother was a US citizen. This is the concern the New Hampshire Ballot Commission will be considering in its deliberations on September 24th.

The issue of concern is the Constitution's use of the term, "natural born" citizen and why is it a eligibility requirement to be President, for certainly in all other respects all citizens are equal, legally. The founding fathers didn't want the Chief Executive and Commander in Chief of the nation to have even the taint of possible divided loyalties. The specter of questions about the possible motives of a foreign-born President's decisions could only be avoided by requiring that a President be natural born, that is, born within the jurisdiction of one of the United States.

The Founding Fathers left it to the Congress to pass laws of naturalization, that is laws, acts, and statutes which enable those not born in the United States to be or become citizens of the United States. That is one of the enumerated powers of Congress granted by the Constitution. (Art. 1 Sec.8 cl.4) After the Constitution went into effect in March of 1789, in the first use of this power to pass laws of naturalization, Congress passed the Naturalization Act of 1790. That law specified how immigrants could become US citizens and enabled the children born abroad of US citizens to be citizens of the United States themselves.

Except for this Law or Act of Naturalization of Congress immigrants would be unable to become citizens and children of US citizens born abroad would not be citizens themselves. The Naturalization Act of 1790 has been repealed and replaced by numerous, succeeding Acts of Naturalization over the many years since then.

Yet, there's confusion amongst a lot of people about the term "natural born" citizen. Within the past several years the media has fostered confusion and uncertainty about the definition of the term "natural born" in the Presidential Eligibility clause of the Constitution, entertaining and celebrating in headlines, opinions of commentators, Congressmen and others, while, curiously, neglecting to examine the US Supreme Court interpretations of the term. However, the US Supreme Court has in several decisions, clearly, consistently and unambiguously defined the term "natural born". My modest efforts of research has found the following several Supreme Court decisions defining "natural born" citizen. Newspapers would do well to devote the ink and space to quote at length from Supreme Court decisions to inform readers regarding this concern, as it is the ultimate legal authority on interpreting the Constitution and defining the term, "natural born". The Ballot Commission will be duly noting what the Supreme Court has said.

<https://supreme.justia.com/cases/federal/us/401/815/case.html>

Rogers v. Bellei 401 U.S. 815, 828 (1971)

"Thus, at long last, there emerged an express constitutional definition of citizenship. But it was one restricted to the combination of three factors, each and all significant: birth in the United States, naturalization in the United States, and subjection to the jurisdiction of the United States. The definition obviously did not apply to any acquisition of citizenship by being born abroad of an American parent. That type, and any other not covered by the Fourteenth Amendment, was necessarily left to proper congressional action." .. "the Court has recognized that, until the 1934 Act, the transmission of citizenship to one born abroad was restricted to the child of a qualifying American father, and withheld completely from the child of

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a United States citizen mother and an alien father."Montana v. Kennedy, supra."

<https://supreme.justia.com/cases/federal/us/112/94/case.html>

Elk v. Wilkins, 112 U. S. 94 (1884) US Supreme Court

"The distinction between citizenship by birth and

citizenship by naturalization is clearly marked in the

provisions of the Constitution, by which, "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, Article II, Section 1;

And "The Congress shall have power to establish a uniform rule of naturalization." Constitution, Article I, Section 8. This section contemplates two sources of citizenship, and two sources only: birth and naturalization. The persons declared to be citizens are "all persons born or naturalized in the United States, and subject to the jurisdiction thereof."

The evident meaning of these last words is not merely

subject in some respect or degree to the jurisdiction of

the United States, but completely subject to their political

jurisdiction and owing them direct and immediate

allegiance. And the words relate to the time of birth in the

one case, as they do to the time of naturalization in the

other. Persons not thus subject to the jurisdiction of the

United States at the time of birth cannot become so

afterwards except by being naturalized, either individually,

as by proceedings under the naturalization acts, or

collectively, as by the force of a treaty by which foreign

territory is acquired."

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<https://www.law.cornell.edu/supct/html/96-1060.ZS.htm>

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Miller v. Albright, 523 U.S. 420, 423-424 (1998). See also Scalia, J. and Thomas, J., concurring: "The Constitution 'contemplates two sources of citizenship, and two only: birth and naturalization.'" When one is born "in" the United States and "subject to the jurisdiction" of the United States that person becomes a citizen "at birth," that is, "becomes at once a citizen of the United States, and needs no naturalization."

Minor v. Happersett <https://www.law.cornell.edu/supremecourt/text/88/162>

88 U.S. 162

"The Constitution does not, in words, say who shall be natural-born citizens. Resort must be had elsewhere to ascertain that. At common-law, with the nomenclature of which the framers of the Constitution were familiar, 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."

<https://supreme.justia.com/cases/federal/us/377/163/case.html>

Schneider v. Rusk, 377 U.S. 163 (1964)

"We start from the premise that the rights of citizenship of the native born and of the naturalized person are of the same dignity, and are coextensive. The only difference drawn by the Constitution is that only the "natural born" citizen is eligible to be President. Art. II, § 1."