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Why Should a President have to be a Natural-Born Citizen

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Why should a president have to be a natural-born citizen?

Now that President Obama has produced his long-form birth certificate, maybe the debate over his birthplace will be put to rest.

Don't count on it. Obama's birthplace has never been seriously in dispute. Those who persist in questioning it have a stake in

casting Obama as the "other." (Is he African? Muslim? Does his loyalty lie elsewhere?) They are unlikely to be deterred by pesky matters like the truth.

Still, the issue's resurfacing provides an opportunity to consider why the Constitution requires the president to be a "natural born citizen" and whether this continues to make sense.

Scholars concede that the 1787 Constitutional Convention's deliberations shed little light on the reason for the natural born requirement. So they instead cite a letter sent to George Washington during the Convention by John Jay, who would later become the nation's first chief justice.

Jay was wary of entrusting foreigners with positions of power. Presumably con-

cerned that foreigners might harbor allegiances to their native countries, he advocated for "a strong check" on admitting them into government and, in the first known use of the term, warned that the commander in chief position should be given only to a "natural born citizen."

Scholars also believe the Framers feared European aristocrats using their power to undermine the fledgling American democracy. In his 1833 treatise, Justice Joseph Story praises the natural born citizen requirement because "it cuts off all chances for ambitious foreigners who might otherwise be intriguing for the office."

Yale professor Akhil Amar similarly concluded that the Framers worried a "foreign earl or duke would cross the Atlantic" and use his vast resources "to buy friends and power on a scale that virtually no American could match."

This sounds improbable today but it was not an idle concern in 1787. The Confederation Congress president had supposedly asked Prince Henry of Prussia to become our constitutional monarch. And even during the Constitutional Convention people speculated that the delegates were inviting King George III's second son to be the American king.

The question for 21st century Ameri-

cans is whether these justifications for the natural born citizen requirement continue to make sense. Or has the time come for a constitutional amendment to remove the requirement?

Certainly, no one today is worried that Prince Charles will jump the pond and assume an American throne. And the concern of dual allegiances might be effectively addressed through a lengthy residency requirement (perhaps 20 years) instead of a complete ban on naturalized citizens serving as president.

Eliminating the natural-born citizen requirement would spare us the burden of having to define it. Sure, everyone agrees that a person born in the United States to American parents fits the bill.

But what about Barry Goldwater, who was born in Arizona when it was still a territory? And what about children who are born to American parents while they are living abroad? The latter was an issue when John McCain ran for president because he was born in the Panama Canal Zone, where his father served in the military.

Still, the real reason for abandoning the requirement must be ideological, not definitional. We need to ask ourselves whether permanently barring all naturalized citizens from seeking the presidency is consis-

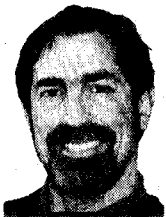
tent with our commitment to equality. Does it make sense in a country that has welcomed immigrants and greatly prospered from their contributions?

Professor Amar points out that, but for the natural born citizen requirement, the Constitution was remarkably pro-immigrant for its time. During the same period England barred naturalized citizens from serving in Parliament. In stark contrast, the U.S. Constitution opened up all offices other than the presidency and vice-presidency to naturalized citizens.

Is it time for the Constitution to become even more fully pro-immigrant by abandoning the natural born citizen requirement? The question becomes most poignant when we have to tell a naturalized citizen like Jennifer Granholm, who moved to U.S. from Canada at age 4 and was twice-elected Michigan's governor, that she is permanently barred from seeking the presidency.

Are we really concerned that Granholm might favor the interests of Canada over those of her adopted country? Or has the time come to tell 4-year-old immigrant children that they, too, can dream of someday becoming president?

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