



Written by [Joe Wolverton, II, J.D.](#) on April 20, 2015

Marco Rubio: Native-born Neocon?

With Senator Marco Rubio's announcement of his campaign for president, there are now two candidates in the race — Rubio and Ted Cruz — whose constitutional qualifications for president are under substantial scrutiny.

While *The New American* has recently reported on Cruz's constitutional condition regarding the natural born citizen requirement of Article II, similar doubts put Rubio's run (and his nativity) under the spotlight, as both of Rubio's parents were Cubans who emigrated to the United States.



Readers are directed to the [analysis of the issue presented in the piece on Ted Cruz](#), in addition to the information provided below.

First, definitions are a very important part of any investigation into what the Founders meant when they raised the threshold for eligibility for president to “natural born citizens” rather than leaving it at the lower level required for members of Congress.

As with any of us, the words used by the Founders must be interpreted in light of the definition given them at the time they were used. For example, there aren't many people today who would use the word “gay” to mean happy, despite the fact that such was the meaning attached to that word in years past.

Accordingly, so that we may understand just how high the Framers of the Constitution intended to set the bar for presidential qualifications, we must analyze the meanings attached to the words they used at the time those words were used, despite any changes that may have occurred in understanding across the intervening centuries.

Or, as one writer has observed, “Otherwise, written texts become as shifting and impermanent as the clouds — blown hither and yon throughout the years by those who unthinkingly read in their own uninformed understandings, or deliberately pervert the text to further their own agenda.”

Let's start, then, with the text of the Constitution. In relevant part, [Article II, Section 1](#) reads: “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; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty-five Years, and been fourteen Years a Resident within the United States.”

That's it. No finer point is put on that term in the Constitution, the *Federalist Papers*, or any record of the debates of the Constitutional Convention of 1787.

In the face of such a dearth of definition, we could abandon the quest to understand the Founders' intentions, or we could pause and recognize that where a word's definition is so universally understood, no additional clarification would be necessary.

That is to say, everyone in the room at the State House in Philadelphia that summer of 1787 knew what was meant by “natural born citizen,” and they felt no obligation to provide any additional insight.



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For example, I don't have to explain to readers what I meant by "summer" in the previous paragraph because everyone knows that that is the season of the year starting in June in and ending in September. So it was in 1787 with "natural born citizen."

The next important step in our analysis is to identify the source of our Founders' concept of "natural born citizen." Despite the fact that RedState, which dubs itself "the leading conservative, political news blog," ridicules his importance, it is almost certain that the men who drafted our Constitution accepted Emerich de Vattel as the authority on the definition of that vital concept.

It can be claimed without exaggeration that it is Vattel's interpretations and writings on the subject of the proper constitution of government that was most influential on the Founders of the American Republic. As a matter of fact, Thomas Jefferson, indisputably one of the lead framers of our nation's government, ranked Vattel's seminal *The Law of Nations* or the *Principles of Natural Law* as highly as similar treatises by Grotius and Pufendorf.

Benjamin Franklin shared Jefferson's admiration for Vattel. In 1775, Franklin wrote in a letter:

I am much obliged by the kind present you have made us of your edition of Vattel. It came to us in good season, when the circumstances of a rising state make it necessary frequently to consult the law of nations. Accordingly that copy, which I kept, (after depositing one in our own public library here, and sending the other to the College of Massachusetts Bay, as you directed,) has been continually in the hands of the members of our Congress, now sitting, who are much pleased with your notes and preface, and have entertained a high and just esteem for their author.

Next, consider the irrefutable fact that Vattel's interpretations of the law of nature were cited more frequently than any other writer's on international law in cases heard in the courts of the early United States, and the *Law of Nations* was the primary textbook on the subject in use in American universities.

For all the foregoing reasons, we are right to turn to the Swiss-born Vattel's *Law of Nations* for our understanding of the definition of "natural born citizen," just as our Founding Fathers did.

Finally, beyond the question of his Article II qualification, Rubio's record should be a roadblock in his drive for the White House.

In an article published April 13 on Voices of Liberty, Nick Hankoff lists five statements made by Marco Rubio that reveal his [neocon sensibilities](#).

Regarding American intervention in Iran, Cuba, the Middle East, and "everywhere else," Hankoff provides quotes from Rubio proving that he wants to maintain the statist status quo.

Even Rubio's campaign theme is thematically consistent with the neocon cadre from which he comes.

Writes Hankoff, regarding Rubio's choice of campaign theme (A New American Century), "Who has the more soaring, flowery rhetoric — Obama or the neocons? Though they back largely the same policies, Rubio's performances make the case for the latter. Elite neocons William Kristol and Robert Kagan founded the Project for a New American Century, and it's that namesake Rubio borrowed for rolling out his key campaign theme."

In spite of these significant stains on Rubio's constitutional cloth, there seem to be many who see him as a desirable alternative to Hillary Clinton (and Rand Paul, for that matter) and are willing to overlook anything that may nullify his constitutional and conservative bona fides.

There is a story from the ancient world that provides an allegory appropriate to the willingness to fit



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Rubio or Cruz into the confines of the Constitution.

In ancient times, on the well-traveled road from Athens to Eleusis, there was a small town called Erineus. Erineus was legendary for an inn run by an innkeeper of some renown.

Procrustes proclaimed his unmatched hospitality. He promised a comfortable bed and protection from the elements. And, somehow, there was always a vacancy.

Weary from their journey, many travelers would take Procrustes up on his offer and unload their packs and choose a bed in the inn. Here's where the trouble started. If upon lying down in the bed the guest didn't quite fit, then Procrustes would either stretch the person or lop off his extremities until the traveler's dimensions matched those of the bed he thought would provide him rest and recuperation.

Too often, it seems, otherwise committed constitutionalists are willing to stretch the Constitution to fit their favorite candidate, rather than forcing the candidate to fit within the confines of the Constitution.



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