

## John Jay, Alexander Hamilton, & the Mystery of the “Natural Born Citizen” Letter

~This is an exposition by John Woodman, -a very erudite and intelligent analyst who has applied his sharp mind to the issues of Obama's eligibility and birth certificates. Most of what he writes is factual, but he is possessed by an erroneous view regarding the meaning of natural citizenship. There are two extreme views and he believes in one of them, -namely the one that defines anyone who happened to exit their mother's womb while she occupied space within U.S. territory as being “a natural born citizen” and eligible to be President (!), even if the father was a **mass murdering foreign enemy** of the United States.

The other extreme is the one that he rightfully excoriates, namely, the also baseless, unprincipled view that natural citizenship is dependent on *both* a U.S. birth *and* U.S. citizen parents. It has no more basis in natural law than Woodman's view. The truth is in the middle.

**Natural membership**, (-the origin of natural citizenship), is dependent on only two things, -a mother and a father of the same genus, species, breed, tribe, clan, ethnicity, race, country, or nation. As in nature (which requires parents with the same life-form), so in national societies, the only requisite is two parents with the same nationality. They produce natural members of their society and nation, -members who need no law whatsoever in order to possess the membership with which they are born. In America they are citizens by birth to citizens, -not by any law ever written. Their membership is natural, and not dependent on any citizenship law (i.e., "naturalization law"), including the 14th Amendment. A.R. Nash [obama--nation.com](http://obama--nation.com)

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[Posted on June 11, 2012 by John Woodman](http://www.obamabirthbook.com/http://www.obamabirthbook.com/2012/06/john-jay-alexander-hamilton-and-the-mystery-of-the-natural-born-citizen-letter/#respond)

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The famous Letter from John Jay to George Washington proposed a constitutional “Natural Born Citizen” restriction.

## John Jay vs. Alexander Hamilton -- Were They At Odds on Presidential Qualifications?

In the summer of 1787, leaders from across America were gathered in Philadelphia in a convention that would create a new Constitution for the fledgling United States. On July 25th, Founding Father and US Secretary of Foreign Affairs John Jay — who was stuck up in New York — wrote a letter to General George Washington, the presiding officer of the Constitutional Convention. In that letter, Jay wrote:

“Permit me to hint whether it would not be wise and seasonable to provide a strong check to the admission of Foreigners into the administration of our national Government, and to declare expressly that the Commander in chief of the American army shall not be given to, nor devolve on, any but a **natural born citizen.**”

On September 2, Washington wrote a reply in which he said, “I thank you for the hints contained in your letter.” And on September 4, the “natural born citizen” clause for Presidential eligibility appeared in a draft of the Constitution reported from the Committee of Eleven.

The “natural born citizen” requirement was approved, with no objection or debate from any member of the Convention, on the 7th.

But John Jay was not the only person known to have wanted a birth-related requirement for the man ultimately in charge of our nation's armed forces. Among the 55 delegates to the Convention, there was one other person who is known to have entertained such an idea. Alexander Hamilton thought the new President should be “born a Citizen.”

On June 18, 1787 (a month before Jay's letter) Alexander Hamilton submitted to the Convention a sketch of a plan of government. Several copies (with some variations) of this plan have survived.

Hamilton's plan called for a chief executive — but called that executive a “Governour” rather than a “President.” The plan mentioned no eligibility requirements for this chief executive.

Notable in Hamilton's plan was that both Senators and the Governour would be elected “for good behavior” — which really meant for life. Although

members of the Convention seem to have felt Hamilton's plan was well thought-out and workable, it was a non-starter. The proposed life terms were a turn-off. Many of the delegates also didn't like the similarity of Hamilton's plan to the British system, and they did not want to establish some new kind of monarchy. As a result, the plan was never seriously considered.

About the end of the Convention, two months later, Hamilton gave a paper to James Madison which he said represented the Constitution he would have wanted. Hamilton had stated its principles in the course of the deliberations. Preeminent Constitutional historian Max Farrand notes that this paper "was not submitted to the Convention and has no further value than attaches to the personal opinions of Hamilton."

Hamilton's later, more complete "draft constitution" provided:

"No person shall be eligible to the office of President of the United States unless he be now a Citizen of one of the States, or hereafter be born a Citizen of the United States." Was Jay's Letter a "Correction" of Hamilton's Proposal?

In an 2010 article entitled, "Is Being a Born Citizen of the United States Sufficient Citizenship Status to be President? The Founders and Framers Emphatically Decided It Was Not!" Commander Charles Kerchner claims that the Framers of the Constitution rejected Hamilton's proposal that the President should be "born a citizen" and instead implemented a different requirement — that he be a "natural born citizen."

"Hamilton's suggested presidential citizenship eligibility requirement was that a Citizen simply had to be 'born a Citizen' of the USA, i.e., a Citizen by Birth. But that citizenship status was rejected by the framers as insufficient. Instead of allowing any person "born a citizen" to be President and Commander of the military, the framers chose to adopt the more stringent requirement recommended by John Jay, i.e., requiring the Citizen to be a "natural born Citizen", to block any chance of the person with foreign allegiances or claims on their allegiance at birth from becoming President and Commander of the Military. No person having any

foreign influence or claim of allegiance on them at birth could serve as a future President. The person must be a "natural born citizen" with unity of citizenship and sole allegiance to the United States at birth.

Jay's proposal... added the additional adjective before "born Citizen" that was proposed by Hamilton. And that word and adjective "natural" means something special from the laws of nature that modifies just being born a Citizen of the USA... Natural means from nature by the facts of nature of one's birth. Not created retroactively after the fact by a man-made law. A natural born Citizen needs no man-made law to bestow Citizenship on them. The added adjective "natural" comes from Natural Law which is recognized the world over as universal law and which is the foundation of the Law of Nations which was codified by Vattel in 1758 in his preeminent legal treatise used by the founders..."

[Note: In a separate article, I've talked about the natural law origin of the term "natural born citizen," which in reality is different from what Cdr. Kerchner claims.]

Kerchner's major claim is that "born a citizen" and "natural born citizen" mean two different things, with "natural born citizen" requiring birth on US soil to two US citizen parents at the time of birth. And in order to support this claim, he states that the Founding Fathers rejected Hamilton's eligibility requirement in favor of John Jay's.

There are some problems with this claim. The first problem is that Jay underlined the word "born" and not the word "natural." If Jay was correcting Hamilton's idea of what the qualification should be, why do this? Why not underline "natural" instead? It doesn't make sense.

The second problem has already been noted, in passing: The Constitutional Convention did not reject Hamilton's proposal in favor of Jay's for the simple reason that Hamilton's wording was never on the table.

The sketch of the plan which Hamilton presented on June 18th to the Convention contains no eligibility requirements for the "Governour" at all. Kerchner has entirely confused this with the much more complete and very different "draft constitution" given

by Hamilton to James Madison at the end of the Convention.

As Farrand notes, the latter “was not submitted to the Convention and has no further value than attaches to the personal opinions of Hamilton.” And the fact that Hamilton’s suggestion in his private document that the President (note the change in terminology) should be “born a citizen” was not adopted by the Convention through any informal channels is conclusively shown by the fact that no eligibility requirements for President appeared in the August 6th draft of the Constitution.

If the Convention had adopted Hamilton’s idea, it would most certainly have appeared in that draft. Nor do the words “born a citizen” appear even once in any of the Convention notes — indicating that Hamilton’s supposed “proposal” was never even a topic of public debate. The only place these words appear is in Hamilton’s private paper given to Madison at the Convention’s end.

Kerchner therefore claims that the Framers of the Constitution “rejected” a “proposal” by Hamilton that was never made in any public presentation, and never brought to the floor for any debate or decision. And even if Hamilton spoke about his preferences to others during the course of the deliberations, his “born a citizen” qualification was never adopted by the Convention.

### Collapse of a Claim

Kerchner’s claim that the Framers of the Constitution “emphatically decided” to “reject” Hamilton’s wording in favor of Jay’s, then, collapses completely. The fact that Alexander Hamilton said “born a citizen” and that John Jay said “natural born citizen” therefore does not imply that the Framers rejected one in favor of the other, or that the two similar phrases mean different things.

But the history of Jay’s letter is about to become more interesting yet. Who Was John Jay’s Inside Man at the Constitutional Convention? It is clear that the details of the proceedings in Philadelphia were kept a tight secret, limited only to those who were “in the know.” If you weren’t at the Convention, then you had to have some sort of very special

connection with somebody who was, in order to have any idea whatsoever what the delegates were talking about.

You had to know somebody. The Constitutional Convention lasted for more than four months. The delegates took up the matter of the Presidency (or “Executive”) on July 17th. They then skipped a day and began speaking earnestly about the Presidency on the 19th.

It was two to three days’ journey from Philadelphia (where the Convention was) to New York City (where John Jay was).

John Jay’s letter was dated the 25th, only 6 days after the Convention began discussing the Presidency in earnest.

It is clear, therefore, that John Jay knew somebody — that he had an “inside line.” But who was it?

Was it George Washington, to whom he wrote on the 25th of July?

### John Jay and George Washington

John Jay and George Washington were friends — since at least the late 1770s. But in spite of that fact, the idea that Washington was feeding Jay detailed information on the Convention’s proceedings seems very unlikely. No letters have survived which would indicate that — and if there had been any such letters, at least some would likely have survived.

Could Washington have sent Jay a draft of the Constitution? Again, the prospect is extremely unlikely. As we’ve noted, the Convention’s proceedings were kept secret; and no one — least of all Washington — would have risked sending notes of the Convention to New York. Beyond that, any such draft would have had to be laboriously handwritten. There were no photocopiers in those days. And remember, Hamilton’s eligibility requirement was not adopted or even debated by the Convention. So even in the extremely unlikely event that somebody did send a draft of the Constitution from the Convention to Jay, any such draft would not have contained Hamilton’s eligibility requirement!

Having personally been to important decision-making conventions, and interacted with those who are in charge of such conferences, I can further tell you from personal experience that the “top man,” invari-

ably, is exceedingly busy. In addition to the constant responsibility of keeping everything flowing, and the constant activity of meetings, cutting back-room deals, and smoothing over ruffled relationships between key players, even in the quieter moments literally everybody wants a piece of the Chief.

The top man in a major convention might find time to write a note home, might even find the time to answer some important correspondence — but a person in that position does not generally have any time to play the role of informant to some person outside the proceedings.

In fact, we have an almost iron-clad indication that General George Washington — who by then was recognized as America's elder statesman and who would soon be unanimously elected the first President of the United States — was not John Jay's "inside man."

It took George Washington — at the very least — about 4 weeks just to write a brief two-paragraph reply to John Jay's letter.

For all of the above reasons, the idea of John Jay getting detailed convention information from Washington seems very highly unlikely. But if George Washington wasn't John Jay's "inside man..." who was?

Out of the 55 Delegates Who Gathered in Philadelphia, There Is One — and Only One — Likely Candidate for John Jay's "Inside Man."

Jay's contact would most likely have been someone from his own State. And while other States sent as many as eight delegates to the Convention, the State of New York only ever fielded three.

At the beginning of July, two of those delegates, disgusted and horrified that the Convention had decided to scrap the Articles of Confederation and write an entirely new Constitution, resigned the proceedings in protest and left in anger — never to return.

Those two delegates — John Lansing and Robert Yates — took a very different philosophical view to John Jay, so neither would likely have sent him any information at all. In any event, both of them shipped out some time between July 5th and July 10th. At the very latest, this was one week before the conversation turned to the matter of the Presi-

dency. Therefore, neither of those men could possibly have been Jay's informer on those proceedings.

The one remaining New York delegate was from New York City, just as John Jay was. And that city, in 1787 as now, was America's largest. But back then, it had only about 30,000 people. In a city of that size, all of the movers and shakers in a particular industry know each other. This would have been true even in the days of transportation by horseback. And in fact, the one remaining New York delegate is known to have been a personal friend and colleague of John Jay — since at least 1775, before the Revolution, when our delegate was still a student at what is now Columbia University.

Unlike Lansing and Yates, he shared Jay's exact same political philosophy. Both men were Federalists. Both men were also anti-slavery — and had worked together as abolitionists.

That delegate had tried very hard, in fact — unsuccessfully — to get his friend John Jay admitted as a fourth New York delegate to the Convention! So when that attempt failed, it only made sense that our delegate would keep Jay apprised of the proceedings.

That delegate would also soon involve John Jay on an absolutely critical and historic project to get the proposed new Constitution ratified, and in that quest the two would co-author — with James Madison — the famous "Federalist Papers." These would be published as a series of 85 newspaper articles which for 10 months would relentlessly urge adoption of the new Constitution. And they would ultimately succeed.

Finally, that delegate is known to have made the two-day trip back and forth from the Convention to New York so often that he could practically be described as a "commuter." That delegate was Alexander Hamilton.

Surely it is no coincidence that the only two men, out of the 55 Convention delegates plus the few knowledgeable outsiders, who are known to have wanted a birth requirement for Presidential eligibility, were close friends and colleagues.

It is not at all difficult to picture Alexander Hamilton and John Jay sitting in a study during one of

Hamilton's frequent returns to New York, discussing the Convention proceedings and the possible provisions that might be put into the document.

Who it was that actually came up with the idea that the President should be a native citizen is lost to history. Was it John Jay, or was it Alexander Hamilton? We will never know. One thing seems quite clear, though. There was never any conflict between John Jay's idea of that requirement, and Alexander Hamilton's. They were both expressions of the same idea.

This reply was posted in "Conclusions, Natural Born Citizen"

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gorefan says: June 11, 2012

I believe Kerchner is basing his claim on a previous mistake by Jill Pryor in her 1988, Yale Law Review article:

"On June 18, a little over a month before Jay's letter, Alexander Hamilton submitted a "sketch of a plan of government which 'was meant only to give a more correct view of his ideas, and to suggest the amendments which he should probably propose ... in ... future discussion.' " Article IX, section 1 of the sketch provided: "No person shall be eligible to the office of President of the United States unless he be now a Citizen of one of the States, or hereafter be **born a Citizen** of the United States." Yale Law Review.

I actually pointed this out to Mario back in November, 2010 during the Lakin court martial. Comments from November 23, 2010:

<http://www.caaflog.com/2010/11/21/this-week-in-military-justice-21-november-2010-edition/>

John Woodman says: June 11, 2012

I did a lot of research that led to the writing of this article... I actually first intended to write it 3 months ago, but at that time got a bit bogged down with the research and laid it aside. In that whole process I ran across the quote from Jill Pryor's Yale Law Review article that you mentioned, and noted that her account conflicted with Farrand's. That was one of the things that led to me double check original sources to see if there was any chance Farrand was wrong.

gorefan says: June 11, 2012

I've seen other law review articles that repeat the same mistake which I suspect are all based on that quote from Pryor. And of course there are a number of birthers who repeat the mistake, KenyanBornObamaAcorn is one who repeats it even though she has been shown the mistake. In fact, it appears in a recent legal brief filed in Maryland.

John Woodman says:

What is truly astonishing is that for more than a year and a half, Kerchner's article — which is really nothing more than a gigantic falsehood — has remained uncorrected on Mario's site.

And Mario knew it was a gigantic falsehood all along. And yet he has allowed it to remain, deceiving the public, all of this time.

As of June 14, 2012 — a year and nine months after the article was written — the article still remains, with not a single note anywhere on the page regarding any error.

In fairness, I doubt that the article was written by Charles Kerchner with the intent of deceiving people. But for a year and a half now that has been the result.

A.R. Nash says: The pot calls the kettle black! Both are in error. Neither follow natural law. Kerchner, Apuzzo, and Donofrio all assumed the falsehood that natural Americans had to be born in America even though the first Congress tried to dispel that false idea the best they could by mandating that American children born abroad be considered as natural born citizens even though the only real issue for state and federal authorities was whether or not they were Americans (citizens) or foreigners. Since at the time the Constitution was being authored, Thomas Jefferson was serving his country as Ambassador to France, and John Adams as Ambassador to England, without the statement in the first naturalization statute that any son born to them abroad was just as American as their domestically born brethren, their foreign born sons would one day suffer from the false assumption that they could never serve as the President. That possibility would have been abhorrent to both men because of its error-based unfairness.

John Woodman, on the other hand, erroneously assumes that anyone born within U.S. territory, who is not protected by diplomatic immunity, is a native citizen, and a domestic birth location makes one a natural native of the country even though born to aliens with no connection to the country and no natural right of citizenship.

That is obviously false since only those born to natives are native members of the national group. Those born to outsiders are not natural members but are members by permission (automatic 14th Amendment naturalization). Not realizing his error, he embraces that fallacious delusion throughout everything that he reads and writes.

But to be fair, it's not his own original error, -it was firmly believed by many who came before him, including many who served in all branches of the government. There is a term for that type of situation, -the type that to this day has enshrined a 500 year old error in the terminology of the government and the people, -the unrealized error of Christopher Columbus who called the indigenous inhabitants of the Caribbean Islands "Indians" -thinking he had reached India. The term to describe that situation, (as well as the one in which people equate native-born citizens with natural born citizens) is "Institutionalized error".

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