

Statement of
The Honorable Orrin Hatch

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Utah
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Statement of Senator Orrin G. Hatch
Before the United States Senate Committee on the Judiciary
Hearing on
"Maximizing Voter Choice:
Opening the Presidency to Naturalized Americans"

Good morning and welcome to the Senate Judiciary Committee's hearing entitled Maximizing Voter Choice: Opening the Presidency to Naturalized Americans.

A few weeks ago, we celebrated Citizenship Day. The purpose of this holiday is to honor those people who have become United States citizens.

Citizenship, whether by birth or naturalization, is the cornerstone of this nation's values and ideals. Each year, hundreds of thousands of immigrants complete the naturalization application process to become citizens. In 1996 alone, there were over one million new citizens naturalized in America. And according to the Department of Homeland Security, approximately 20 million individuals have become naturalized citizens in this country since 1907.

The United States is known as the land of opportunity, but there is one opportunity that these American citizens will never be able to attain under current law. They can never hold the office of the President. Article 2, Section 1, Clause 5 of our Constitution, which sets forth the eligibility criteria for the Office of the President, requires a President to be a natural born citizen.

What is a natural born citizen? Clearly, someone born in the United States or one of its territories is a natural born citizen. But a child who is adopted from a foreign country to American parents in the United States is not eligible for the presidency. That does not seem fair or right to me.

Similarly, it is unclear whether a child born to U.S. servicemen overseas would be eligible. Most academics believe that these individuals would be eligible for the Presidency, but I note that some academic scholars disagree. A recent article in Green Bag, a journal that specializes in Constitutional law, quotes an 1898 Supreme Court case that the natural born citizen clause "was used in reference to that principle of public law, well understood in this country at the time of the adoption of the Constitution, which referred citizenship to the place of birth."

I have proposed a constitutional amendment, S.J. Res. 15, to address this issue. The Equal Opportunity to Govern Amendment would amend the Constitution to permit any person who has been a United States citizen for at least 20 years to be eligible for the Presidency.

As Boise State University Professor John Freemuth explained, the natural born citizenship requirement is something of an artifact from another time. It is time for us - the elected representatives of this nation of immigrants -- to begin the process that can result in removing this artificial, outdated, unnecessary and unfair barrier. While there was scant debate on this provision during the Constitutional Convention, it is apparent that the decision to include the natural born citizen requirement in our Constitution was driven largely by the concern over 200 years ago that a European monarch might be imported to rule the United States.

This restriction has become an anachronism that is decidedly un-American. Consistent with our democratic form of government, our citizens should have every opportunity to choose their leaders free of unreasonable limitations. Indeed, no similar restriction bars other critical members of the government from holding office, including the Senate, the House of Representatives, the United States Supreme Court, or the President's most trusted cabinet officials.

The history of the United States is replete with scores of great and patriotic Americans whose dedication to this country is beyond reproach, but who happen to have been born outside of our borders. These include former secretaries of state Henry Kissinger and Madeline Albright, the current Secretary of Labor Elaine L. Chao, and former Secretary of Housing and Urban Development Mel Martinez, who is now running for a Senate seat in Florida. As our Constitution reads today, none of these well-qualified, patriotic United States citizens could be a lawful candidate for President.

As Congressman David Dreier has stated: The Constitution limits us from having the opportunity of choosing someone who's a bold, dynamic, dedicated leader for our country.

Michigan Governor Jennifer Granholm, who was born in Canada, also supports this amendment. She explained: You can't choose where you are born, but you can choose where you live and where you swear your allegiance.

This is also true for the more than 700 immigrant recipients of the Congressional Medal of Honor - our nation's highest decoration for valor - who risked their lives defending the freedoms and liberties of this great nation. But no matter how great their sacrifice, leadership, or love for this country, they remain ineligible to be a candidate for President. This amendment would remove this unfounded inequity.

Any proposal to amend the Constitution is not one I take lightly. But I believe that amending the Constitution in this instance would facilitate the democratic process by giving the American voters more choice in determining who should be elected as President of the United States. As Professor John Yoo, from Boalt Hall, told the Los Angeles Times: Making naturalized citizens eligible to become president would fall within the tradition of amending the Constitution to expand democracy, whether it be expanding the franchise or making elected representatives more directly elected.

My proposal is already garnering bipartisan support. Several senators have publicly expressed support for a constitutional amendment in statements made to the media over the last several months. In addition, we are fortunate to have with us today, a panel of six distinguished members of Congress to discuss various proposals in the Senate and the House that would maximize voter

choice for the Presidency. I look forward to hearing from them and from our academic experts on Panel 2.