

Examples Of Legislation Affecting The Rights Of Chinese Immigrants

NATURALIZATION

First Congress of the United States, Session II. Ch.3. 1790

Chapter III. — An Act to establish a uniform Rule of Naturalization.

Section 1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any alien, being a free white person, who shall have resided within the limits and under the jurisdiction of the United States for a term of two years, may be admitted to become a citizen thereof,

...And the children of citizens of the United States, that may be born beyond sea, or out of the limits of the United States, shall be considered as natural born citizens....

TESTIMONY

California Statute, Act of April 16, 1850

3rd Division, Section 14. No black or mulatto person, or Indian, shall be permitted to give evidence in favor of, or against, any white person. Every person who shall have one eighth part or more of Negro blood shall be deemed a mulatto, and every person who shall have one half of Indian blood shall be deemed an Indian.

In the case of People v. Hall in 1854 (a case in which a Chinese man was murdered, the defendant was white, and the only witnesses were Chinese), a California Supreme Court judge ruled that this statute included Asians. He based his opinion on his reasoning that since Native Americans are believed to have emigrated from the Asian continent after the last Ice Age, the “Mongolian” race can be considered in a similar class as Native Americans, and thus ineligible to testify against whites. Without the testimony of the Chinese witnesses, the case was thrown out.

PROPERTY

Oregon State Constitution, 1859

Article 1, Section 31. White foreigners who are or may hereafter become residents of this State shall enjoy the same rights in respect to the possession, enjoyment, and descent of property as native-born citizens. And the legislative assembly shall have power to restrain and regulate the immigration to this state of persons not qualified to become citizens of the United States.

This article, though it does not explicitly prohibit Chinese from owning land, does not protect their right to hold land and so works to effectively exclude Asian immigrants from holding land. The law was repealed in 1949, and the new article states that “alienage of any person” shall have no bearing on their right to hold land.

California Statute, Alien Property Initiative Act of 1920
California General Laws, Act 261

This statute as amended forbids aliens ineligible for American citizenship to acquire, own, occupy, lease, or transfer agricultural land. It provides that any property acquired in violation of the statute shall escheat to the State as of the date of acquisition...

This statute was successfully challenged in the case of Oyama v. California, decided by the Supreme Court in January 1948. The court found the statute to be in violation of the 14th Amendment. In 1950 the California District Court of Appeals found the Alien Land Laws to be in violation of the United Nations Charter, and on these ground invalidated the laws.

Nevada Compiled Laws, 1929

Section 6365. Any non-resident alien, person or corporation, except subjects of the Chinese empire, may take, hold, and enjoy any real property, or any interest in lands, tenements, or hereditaments within the state of Nevada, as fully, freely, and upon the same terms and conditions as any resident citizen, person, or domestic corporation.

This statute was amended in 1943 to eliminate the words "except subjects of the Chinese empire."

MISCEGENATION

Nevada Compiled Laws, 1911

Section 10197. It shall be unlawful for any person of the Caucasian or white race to intermarry with any person of the Ethiopian or Black race, Malay or brown race, or Mongolian or yellow race, within the state of Nevada.

Section 10200. If any white person shall live and cohabit with any black person, mulatto, Indian, or any person of the Malay or brown race or of the Mongolian or yellow race, ... such person so offending shall, on conviction thereof, be fined in any sum not exceeding five hundred dollars, and not less than one hundred dollars, or be imprisoned in the county jail not less than six months or more than 1 year or both.

Revised Codes of Montana, 1935

Section 5701. Every marriage hereafter contracted or solemnized between any white person and a Chinese person shall be utterly null and void.

Section 5702. Every marriage hereafter contracted or solemnized between a white person and a Japanese person shall be utterly null and void.

These are typical miscegenation laws, some form of which existed in 35 states during the first half of the 20th century.

CIVIC JOBS AND OFFICES

Revised Laws of New Hampshire, 1942.

Chapter 43, Section 4. No person is eligible to hold any municipal office, elective or appointive, who is not a citizen of the United States.

This is a typical law permitting only citizens to hold government jobs. In many states that includes public school teaching and other professions provided for by state funds. Asian immigrants were not allowed to apply for citizenship until 1952.