

IN THE UNITED STATES DISTRICT COURT FOR THE  
TERRITORY OF HAWAII.

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IN THE MATTER OF THE APPLICATION )  
OF TAKAO OZAWA )  
FOR ADMISSION TO CITIZENSHIP. )  
..... )

B R I E F .

There are three distinct branches of qualification of an alien before he can become a proper subject for naturalization, namely:

1. Moral qualification.
2. Educational attainments.
3. Legal requirements.

This case will be considered in the order named.

1. MORAL QUALIFICATIONS. The applicant by two reputable witnesses established a good character. On the question of general character this would have been ordinarily sufficient, but unfortunately for himself he filed a brief. This brief disclosed the fact that the petitioner is not morally a fit subject for naturalization for in that brief he threatens the United States with the government of his own country Japan if he is not allowed to become a citizen of the United States. I refer specially to the matters stated on page 29 of his brief. Under his own statement filed in this Court, I

challenge his right to be admitted as a citizen upon this question alone.

2. EDUCATIONAL ATTAINMENTS. His educational attainments, his power to speak the English language and his knowledge of the Government of the United States in all of its Departments seem in all respect sufficient, and no objection in that respect is raised.

3. LEGAL REQUIREMENTS. We must not lose sight of one great principle underlying naturalization; that no alien can claim the inherent right to become a citizen of the United States, but under certain proper conditions he may ask for the privilege. Another great elementary principle might be named; that every civilized organized government has the inherent right to say what class of aliens may or may not become its citizens and dwell within its borders. On these two principles rests the stability of every country.

1. No alien can demand of this or any other country recognition as a citizen. 6 Fed. 256.

2. Any alien can ask for admission and recognition as a citizen,-- his admission to citizenship is fixed by Congress.

3. The Congress of the United States has the inherent, undisputed right to say what class of aliens shall be accepted as citizens. (Fong Yue Ting, 149 U.S.698).

4. The Congress of the United States has the inherent, undisputed right to say what class of aliens cannot become citizens. (130 U.S. 581.)

To this petitioner who is an admitted Japanese alien born in Japan, and a member of the Mongolian Race, the Congress of the United States has said that he cannot become a legally naturalized citizen of the United States because Section 2169, Revised Statutes of the United States says:

"The provisions of this title shall apply to aliens being free white persons and to aliens of African nativity and to persons of African nativity."

Section 2169, Revised Statutes of the United States has been construed and digested in the following cases:

62 Fed. 126.  
163 Fed. 922.  
174 Fed. 834.  
178 Fed. 245.  
213 Fed. 355.  
6 Fed. 256.  
Fed. Cases 104.  
71 Fed. 274.  
171 Fed. 299.  
30 Wash. 234.  
171 Fed. 294.

The words of the statute are to be taken in their ordinary sense, unless it can be shown that they are used in a technical sense. (62 Fed. 126).

Blumenbach in 1781 divided mankind into five principal types --- Caucasian or White, Mongolian or Yellow, Ethiopian or Black, American or Red, Malay or Brown. This general division has ever since been the accepted division, has never been changed and is to-day the only division accepted by the civilized world.

On May 6, 1882, Congress enacted a special law which prohibited the naturalization of Chinese. Previous to which time the Chinese and Japanese under the law of naturalization stood upon the same footing. During this period of time when the Chinese and Japanese stood upon the same footing with reference to naturalization, the applications for the naturalization of certain Chinese were denied.

5 Sawy. 155  
See also 6 Sawy. 541 - (6 Fed. 256)  
112 U. S. 94  
149 U. S. 698.

The petitioner asserts that at least fifty Japanese have been naturalized and furnishes a list of fourteen,-- he does not furnish the conditions or circumstances under which they were naturalized, hence a discussion of the same is useless and worthless.

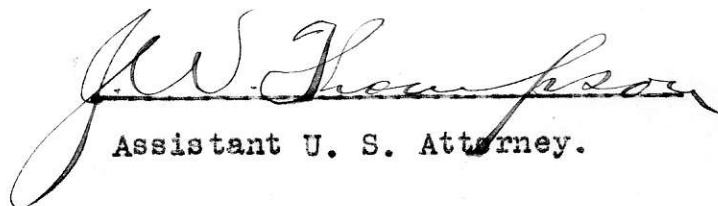
I should like to note briefly a few observations and conclusions.

1. No alien Japanese has ever been legally naturalized.
2. No Japanese has ever been permitted to become a citizen of the United States where his cause reached a Superior Court.
3. No Superior Court ever sanctioned or allowed the naturalization of any alien of the Mongolian Race.

4. No Superior Court ever allowed the naturalization of any alien, where that court passed upon the question, except one of the Caucasian Race or the Negro Race.

Hence the petition for naturalization of this petitioner should be dismissed.

Respectfully submitted,

  
Assistant U. S. Attorney.



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Filed, JUL 31 1915

at \_\_\_\_\_ o'clock and \_\_\_\_\_ minutes \_\_\_\_\_ m.

A. E. MURPHY, Clerk

By *H. J. Ladd* Deputy Clerk.

J. W. THOMPSON,  
Assistant U. S. Attorney.

Filed May 19, 1915.  
(pp) C. E. Murphy, Clerk