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## The U.S. Constitution & Asian Americans: A History of Exclusion & Incarceration

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## Lecture Outline

- Background: Legal & Supreme Court History
- CITIZENSHIP/EXCLUSION
  - 1790 Naturalization Law & 1882 Exclusion Law
- 1898 (Supreme Court)
- CITIZENSHIP: (1922)
  - *U.S. vs. Thind* (1923)
- EXCLUSION: 1917 & 1924 Immigration Act
- EXCLUSION: 1934 Tydings-McDuffie Act
- DEPORTATION: 1935 Repatriation Act
- INCARCERATION: Executive Order 9066

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## America for “free white” people *only*: 1790 Naturalization [Citizenship] Act

*CHAP. III.—An Act to establish an uniform Rule of Naturalization.(a)*

**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 the term of two years, may be admitted to become a citizen thereof, on application to any common law court of record, in any one of the states wherein he shall have resided for the term of one year at least, and making proof to the satisfaction of such court, that he is a person of good character, and taking the oath or affirmation prescribed by law, to support the constitution of the United States, which oath or affirmation such court shall administer; and the clerk of such court shall record such application, and the pro-

Photo: Univ. Washington Library (<http://library.uwb.edu>) 1795/5 & 1798/15

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## 1882 Chinese Exclusion Act

- First immigration law that was directed against a particular *race...ASIAN*
- ***Otherwise, anyone can enter the United States... without any restrictions***
- Passed as a result of the Great Depression (1870s)





Photo: Law Enforcement Today (<http://www.lawenforcementtoday.com/2013/07/13/prohibition-the-war-on-opium-and-the-chinese-“yellow-peril”/>)

Source: <http://ec.usf.edu> J. Sobredo



THE "CHINESE WALL" ARGUING THE UNITED STATES OF AMERICA

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## 1882 Chinese Exclusion Law


Excluded all Chinese labor immigration  
Merchants & diplomats exempted

- \* Violence against Chinese (Rock Springs, WY 1885)
- \* Beginning of Japanese labor migration
- \* Recruited by Hawaii sugar plantations

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### 1885 Japanese Immigration: Excluded by laws in 1917 & 1924




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Photo: Collegewisdom.com

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### U.S. Supreme Court Case *U.S. vs. Wong Ark Kim* 1898

Wong Kim Ark Case (169 105 649)



National Archives: Immigration and Naturalization Service, San Francisco District Office

\*As an American-born Chinese, is he a U.S. citizen or not?

\*Photo: Chuck Marcus, UC-Hastings Law School Lib.

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### 1898 Supreme Court Ruling

- *Jus Soli* (birth)
- Anyone born in the Unites States
- 14<sup>th</sup> Amendment(1865) to the U.S. Constitution
  - Constitutional change was for admitting African Americans to citizenship
- *Jus sanguinis* (blood)
- Roman Law tradition
- English Common Law
- One or Both parents
  - Both these interpretations still hold true today


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### Race, Citizenship & Exclusion

- Takao Ozawa v. US (1922)
  - Court: “white” (1790 Law) = “Caucasian”
  - Thus, Asians are not “white” (not “Caucasian”)
- US v. Thind (1923)
  - Bhagat Singh Thind
  - Court : “white” is not “Caucasian”
  - “white” means the *color* white
- 1924 Immigration Act
  - “aliens ineligible for citizenship”
  - Excluded from America

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1918  
Bhagat Singh Thind  
Indian/Sikh American

\*Photo source:UC Berkeley Library

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### ALL ASIANS are excluded... except Filipinos

During the Great Depression  
Filipino “Race riots”  
became national news...

*New York Times*  
*Washington Post*

Source/Photo: Alex Fabros in *Positively Filipino* Prof. J. Sobredo

## Filipinos & White Women

When Hilario Met Sally: The Fight Against Anti-Miscegenation Laws

Alex S. Fabros, Jr.



Bachelors' club dinner parties were occasions for manongs to show off their girlfriends and dates. (Source: FANFS Director, Paganinan Association of Los Angeles)

The simple act of falling in love is a right we take for granted today. Whom we love and how we love is no longer questioned for the most part; nor is the race of the object of our affections a major legal barrier. For the manong generation of 70 years ago, however, the right to fall in love was one of the battles in their long fight for civil rights in this country.

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## Filipinos were racially constructed as the "Third Asiatic invasion"


- U.S. Congressman Richard J. Welch
- Labor Unions
- Nativist Organizations (America is for native white "Americans" only)

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1934 Tydings-McDuffie Act = FILIPINO EXCLUSION and then...

1935 Filipino Repatriation Act = an attempt to **DEPORT** Filipinos

\*Bill sponsored by Congressman Welch




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## Connection to Sac State

EUGENICS IN CALIFORNIA

### Charles Matthias Goethe

Charles Matthias Goethe (1875-1966) was a prosperous local Sacramento businessman who was directly involved in the development of the capital and the CSUS campus, which received the largest portion of his estate including his personal residence and library. When he died in Sacramento on July 10, 1966, the Sacramento Bee celebrated CM Goethe as a "philanthropist, author, scientist, civic leader, and world traveler" and especially noted his devotion to nature preservation. Recognizing a "great loss to California and the nation," Governor Edmund G. Brown eulogized: "This marvelous man dedicated most of the waking moments of his life to the betterment of mankind. The results of his efforts are evident throughout the length and breadth of mankind."



CM Goethe was a highly influential public figure over much of the twentieth century who is best remembered for his dedication to nature conservation. Through the Save-the-Redwoods Foundation, Goethe used his substantial wealth to establish a number of memorial redwood groves in Northern California. Goethe's enthusiastic support of nature study instigated the interpretive parks movement, which was responsible for the development of the educational aspects of the nation's modern parks system.

Goethe was also a significant, and largely overlooked, advocate of eugenics both in California and beyond. He founded the Eugenics Society of Northern California in the 1930s, and was a lifelong advocate of "better breeding" principles, including restrictive immigration policies and the adoption of sterilization laws. For Goethe, nature conservation was an essential component of his complex eugenic vision of "human betterment." As historian Alexandra Minna Stern argues in her new book:

Source: CSU Library, <http://www.csus.edu/cshpe/eugenics/goethe.html>

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## By 1934...

## ALL Asians are Excluded from America

Racial ideology of Social Darwinism:

\*Filipinos & Asians were an "inferior race"

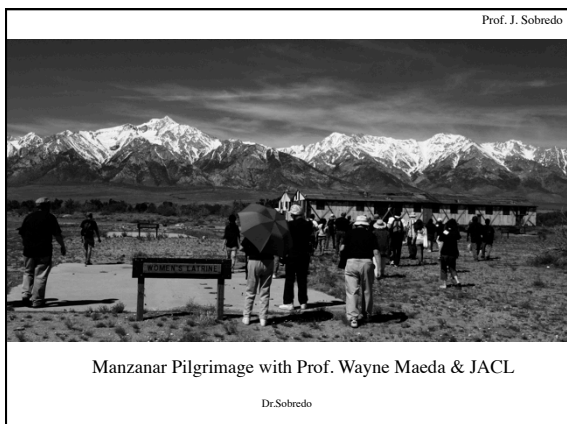
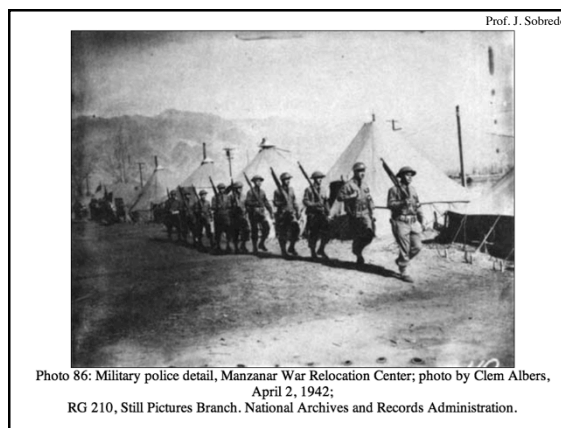
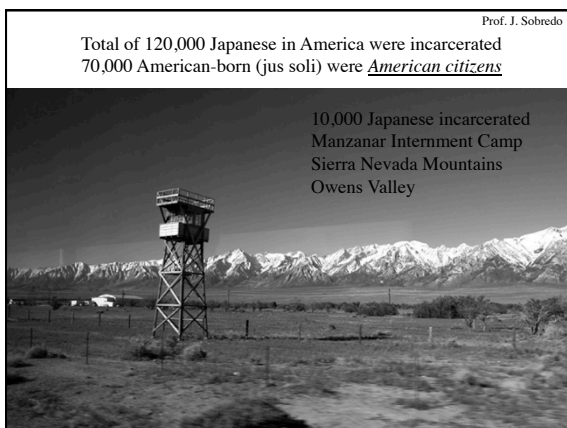
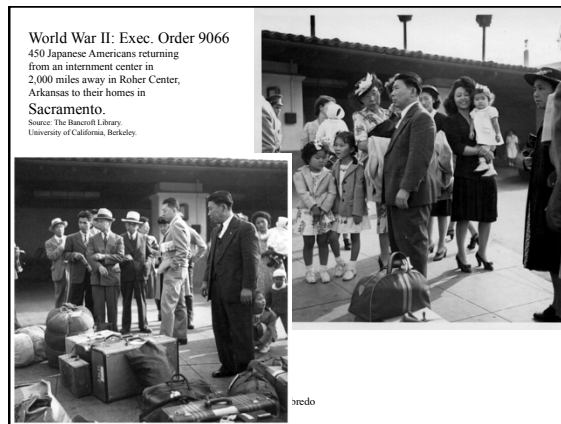
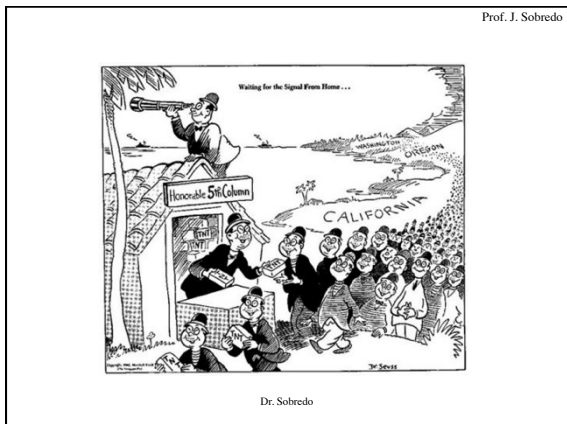
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World War II Japan attacks the United States

Battleship USS West Virginia engulfed in flames and smoke during the attack on Pearl Harbor on Dec. 7, 1941.

Source: <http://www.blogs.us.gps/Vintage/11713/looking-at-the-sleeping-giant-the-birth-of-the-greatest-generation/>



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### Lecture Review

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- CITIZENSHIP/EXCLUSION
  - 1790 Naturalization Law & 1882 Exclusion Law
- 1898 *U.S. vs. Wong Ark Kim* (Supreme Court)
- CITIZENSHIP: *Ozawa vs. U.S.* (1922)
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## What Next?

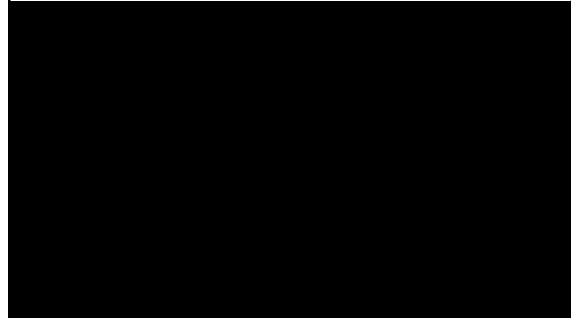
The fight for American Citizenship continues...

The fight for the Dream Act continues...

And an Asian is at the forefront of that fight.

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## Jose Antonio Vargas video



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Salamat Gid  
Maraming Salamat  
Muchas gracias  
Si Yu'us ma'ase  
Thank you

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