

6. TO KNOW A CITIZEN  
BIRTHRIGHT CITIZENSHIP DOCUMENTS  
REGIMES IN U.S. HISTORY  
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In the early 1990s I worked as a vice consul in the U.S. embassy in Kampala, Uganda. One of my duties was to issue visas to tourists and businesspeople planning to visit the United States. One day a white woman from the United States came to the embassy holding her two biracial children by the hand. She needed to apply for a visa, she explained, to return home to her parents' care because she was very ill and likely to die in the coming months. She also needed to bring her children, who had U.S. passports, home so her parents could raise them after her death, for their father had recently died. I was surprised by her request and asked why she didn't travel using the American passport that I assumed she held. She explained that she had renounced her citizenship two years earlier and was now a Ugandan citizen. She had done so because in an argument with the children's father, he had threatened to divorce her and have her deported without her children. The woman was in a terrible position: as a terminally ill Ugandan, she would not qualify for a U.S. visa, except perhaps under "humanitarian visa" criteria, and these were applied quite stringently. The children were also a concern. Ugandan orphanages were having trouble providing basic needs to the growing population of orphans due to the AIDS crisis. Fortunately, a way out presented itself. Because she had expatriated herself under duress, she was eligible to reverse the expatriation. She resumed her U.S. citizenship and presumably returned to the United States with the children.

This contemporary case shares important elements of successful citizenship claims through the twentieth century: a person who, from race, gender, and class status, conforms to stereotypes of a U.S. citizen, is found to be one. As is evident from U.S. birthright citizenship claims over time, individual bureaucrats judged citizens' claims, whether at the U.S. border or at embassies abroad, based on more than policies or documents. They required applicants to establish credibility as a citizen, a sometimes delicate, sometimes clumsy process. Citizenship is not an arbitrary status bestowed upon individuals in government offices stateside or abroad. Nor is it one that is self-evident or inferred from documents alone. It is, however, more easily defended by some individuals than others.

In addition to policies, affective responses to documents and the individuals behind them influence outcomes in specific cases (see also Friedman, Sadiq, and Babo, this volume). Throughout U.S. history, government bureaucrats at U.S. borders, in passport agencies, or in U.S. consulates or embassies abroad have often used racial or ethnic stereotyping to verify, challenge, or reject a claimant's case.<sup>1</sup> Race has played out in applicants' citizenship claims cases in particular ways, leading Kristin Collins (2011) to note that "the history of U.S. citizenship law cannot be understood without due recognition of racism's central role in shaping the entire regulatory field."<sup>2</sup> The applicant's gender has also affected outcomes. An element that added credibility and urgency to the case in Uganda was the applicant's status as the mother of American citizen children in danger. Class status, especially as it relates to racialized groups such as Chinese Americans, also has been significant. This chapter furthers our understanding of the development and uses of documents regimes and explains how decisions made on the ground, today mainly in cases of citizenship acquired by meeting certain criteria of family ties and descent, reflect biases based on an applicant's race and gender.

Birthright citizenship claims may be based on *jus soli*, the birth of a child on U.S. soil, or may be acquired upon birth abroad to a U.S. citizen parent, also known as *jus sanguinis*. Two components of establishing birthright citizenship are proof of eligibility for citizenship and proof of identity. How to prove eligibility and identity has changed through U.S. history. Craig Robertson (2010) recently argued that World War I provides a critical divide, before which documentary evidence was less important to proving a claim to citizenship. Robertson suggests the increase in the size of the population challenged local forms of validation. However, the treatment of U.S. citizens of Chinese descent poses a problem to Robertson's chronology. Decades before World War I, immigration agents used document protocols to disprove their citizen-

ship claims. The regime lasted decades longer than Robertson acknowledges. It was so enduring one sees the same forms and documents in claimants' immigration files between the 1880s and the 1940s. The similarity in protocols allows an examination of this documents regime across generations of the same family. A review of these reveals a racialized documents regime complicated by class status and gender.

*Wong Kim Ark's Right to Enter (1898): Birthright Citizenship and Race*

The Wong Kim Ark case is a precedential case in the jurisprudence of U.S. citizenship. In 1870, Wong Kim Ark was born in an apartment over a storefront in San Francisco's Chinatown. While Wong's parents were Chinese nationals, his birth on U.S. soil made him a U.S. citizen. When Wong was quite young, his parents took him to their ancestral village in China, Ong Sing, in Taishan Province, where he attended school for three years. He returned to the United States at age eleven, entering with a "native born affidavit," and worked as a cook's apprentice in a Sierra Nevada mining camp. At age nineteen Wong returned to China and married Yee Shee. In keeping with the custom at the time, Wong traveled back and forth across the Pacific in adulthood to visit his wife and young children, who remained in the home village. Examining the documents Wong and his sons used to claim U.S. birthright citizenship offers a case study in the changing use of documents to match officials' changing presumptions of fraud between 1881 and 1947.<sup>3</sup> Chinese American challenges to racial exclusion led to a particular documents regime that relied on lengthy investigative interviews and the use of photographs and notarized affidavits.

Birthright citizenship policy was distinctly racialized from its first use in the British colonies through the passage of the Fourteenth Amendment and beyond. Adapted from English common law, citizenship by *jus soli* applied to the children of white immigrants, those "free white persons" deemed naturalizable by the Naturalization Act of 1790 (Haney-Lopez 2006; Kettner 1978; Schuck and Smith 1985; Smith 1997). Children of color, including the children of white fathers and enslaved African American mothers, were excluded from the *jus soli* regime by civil law (Finkelman 1997, 2006). Children of Native Americans born "in tribal relations" were mainly excluded by an interpretation of international law suggesting that the tribes were separate nations (Maltz 2001; Stock, this volume). Ineligibility for *jus soli* citizenship might appear to be lodged in the body of the person of color, but the real problem was the way skin color and ancestry triggered affective responses toward the documentary signifiers. These readings of the documents imputed alienage, an official response

quite different from that triggered by whites, whose use of the evidence affirmed their U.S. citizenship. After Congress passed the Fourteenth Amendment to ensure the citizenship of African Americans, two groups whose status might be affected were Native Americans and Chinese Americans. In the era of Chinese exclusion from immigration, the U.S. Immigration Bureau sought to reject the citizenship status of Chinese born in the United States (Lee 2003; Ngai 2005).

Racial exclusion invoked an ostensible expertise in reading the body and recognizing eligibility; immigration officials excluding Chinese laborers from the United States marked a difference in border policy. With other groups, immigration officials looked for indications of inadmissibility among a largely admissible group. Immigration laws barred those who were “morally, mentally and physically deficient.” For those of Chinese descent on the West Coast, however, government officials looked for admissible individuals within a largely excludable group (Robertson 2010, 172). This was also a class-based system: admissible Chinese immigrants were merchants, students, and clergy members, mainly from elite society; laborers were excluded. Laborers were identifiable by their clothing, their class of travel, and their bearing. Immigration inspectors came to believe in their ability to know citizens, too, inferring status based on appearance and speech. All citizens had to do to be recognized, according to commissioner of immigration in New York, William Williams, in 1912 was “state with accuracy their place of birth.”<sup>4</sup> Agents’ expertise could now be used to challenge individual claims of citizenship. A delicate dance between government agent and citizen claimant led to the creation of thick files of documents on tens of thousands of citizen claimants, including the files of Wong Kim Ark and his descendants.

Though Wong Kim Ark was carrying an affidavit of his status as a U.S. citizen, his claim to citizenship was first challenged when he attempted to reenter the United States in 1890. To assist him in proving his claim, Chinese consul F. E. Bee took personal statements from two witnesses who had been in California and known Wong’s family for more than twenty years. Both witnesses professed that they knew “Wong Kim Ock [*sic*]” to have been born in the United States. One was a white lawyer named Frederick Berna; the other was a Chinese merchant named Hoo Sue. Berna explained that he had come to know the family when he was a deputy tax assessor and that, although he had not been present at the birth, he was confident the young man had been born in San Francisco because Wong’s parents had lived in the same place for six or seven years prior to 1875. Hoo Sue swore that he knew Wong Kim Ark’s father well and that he knew his son was born in San Francisco. It is clear in the immi-

gration file that while theoretically the same documents regime legally applied to U.S. citizens of Chinese descent as to other claimants, extra scrutiny of Chinese Americans created problems for Wong. An unnamed Bureau of Immigration official investigated the truth of Wong's claim to birth in the United States by refuting Berna's credibility. He found the lawyer at the address indicated on the affidavit (42 Montgomery), but he noted that "nobody there seems to know if he has any employment." The investigator also observed that "although last time they did not recognize" Wong Kim Ark's photograph, "this time the firm knows the photograph." In concluding his investigation, he wrote, "I believe this [case] is fraudulent."<sup>5</sup> That judgment, preserved in Wong's immigration file on an unsigned piece of paper, affected his entry four years later.

Wong again faced difficulty landing in 1894, though once again he carried an affidavit of citizenship drawn up before his departure. The notarized statement of citizenship (see later discussion) may have attested to his birthplace, but it did not guarantee his citizenship. In the time since Wong's entry in 1890, scrutiny of those of Chinese descent had increased. Border officials often ignored the Fourteenth Amendment's guarantee of citizenship for those born in the United States. These officials scrutinized Chinese immigrants more closely for signs of membership in the laboring classes, the main group excluded by legislation and a status that might now, for putative U.S. citizens, supersede birth in operational significance (Lee 2003, 103; Robertson 2010, 171–77). Though the affidavit stated that "Wong Kim Ark is well known to us" and was "born in the United States," he was also a laborer, a man with three years of education who had worked as a cook since age eleven (Wong Kim Ark INS file, National Archives and Record Administration [NARA], San Bruno). His file also contained the incriminating statement by the U.S. Treasury inspector ("Investigation of Truth of Claim to Birth in the United States," 1894, NARA, San Bruno). District Attorney Henry Foote claimed that Wong's "education and political affiliation" overcame his claim to citizenship, that his claim to citizenship was based on a mere "accident of birth" in the United States (Lee 2003), overlooking the fact that everyone's birth in the United States is equally an accident.

Held on board the steamship *Coptic* in San Francisco's harbor for three months while he fought against a shifting documents regime to reenter his home country, Wong hired a prominent attorney, who filed a habeas corpus petition. The attorney argued that Wong was a U.S. citizen by birth, so immigration laws should not apply to him. A judge in the Northern District Court of California agreed that Wong's birth in the United States made him a citizen, per the Fourteenth Amendment. Immigration authorities freed him from custody in January 1896. Even so, the U.S. government appealed the case on

its merits: Was the child of Chinese subjects born in the United States a citizen? Two years later a lengthy decision in the Supreme Court affirmed that the Fourteenth Amendment, “in clear words and in manifest intent, includes the children born within the territory of the United States, or all other persons, of whatever race or color, domiciled within the United States.”<sup>6</sup>

The clarity of the language about race in the Wong Kim Ark decision settled citizenship for Americans of Chinese descent born on U.S. soil, but not if they were born abroad and otherwise might claim citizenship by descent. Immigration authorities continued to prevent Chinese—and Asians more generally—from entering. Immigration authorities challenged Wong’s ability to transmit citizenship to his children born abroad, a sturdy right enjoyed by American men from 1790 to 1934. Wong himself faced further scrutiny by U.S. immigration officials in El Paso, Texas (Deportations of Chinese Immigrants, NARA, Fort Worth), just eighteen months after the Supreme Court decided his case.

The documents regime evident in Wong Kim Ark’s file demonstrates how flexible the Immigration Bureau’s documents requirements could be in the face of concerns about fraud. As documents like the affidavit of a respectable person who knew of a claimant’s birth in the United States became suspect, the Immigration Bureau and State Department extended technologies established for Americans of Chinese descent to other groups. The entry and inspection process saw an overhaul during World War I that constituted a new documents regime. Beyond swearing an oath before a notary, an applicant now needed to present a birth certificate or, as Wong Kim Ark had been required to do in 1890 and 1895, an affidavit that proved birth on U.S. soil. Additionally, as Wong Kim Ark did in 1890, applicants had to bring a “good witness,” perhaps a reputable professional or businessman, to identify them to the officer. The technologies developed for Chinese Americans were available for bureaucrats to use or ignore at their pleasure.

In spite of increased reliance on documents, bureaucrats at the border, in the passport office, and overseas were convinced that they, ultimately, could judge the veracity of a person’s claims by evaluating his or her demeanor. In 1916, the State Department announced that taking an oath of allegiance with the “penetrating eye of the clerk upon him” could ensure the legitimacy of a case. Interestingly, the U.S. embassy in Warsaw reported success in verifying citizenship claims by using intensive questioning of applicants and identifying witnesses (Robertson 2010, 206). And officials continued to rely on reading personal appearance at the border. A Labor Department official testified in Congress that his staff would recognize citizens as they entered the United States whether or not they had passports because “an American’s manner of

speech, his appearance, and bearing” identified him as a citizen (Robertson 2010, 209). Evidence for a World War I regime is mixed; although the State Department announced a new documents regime, bureaucrats continued to use discretion based on their evaluations of people’s appearance, class, and behavior. Just as the “accidental” citizenship that seems to question Wong’s status reveals the contingency of citizenship more generally, the ad hoc contextual findings reveal the influence of American myths in these determinations.

Wong Kim Ark’s descendants provide a full case study of how the presumption of fraud affected the reception of Chinese Americans’ children as citizens. The documents for all four of Wong’s sons (see, e.g., “In the Matter of Wong Yook Thue,” Immigration File 29438/5-23, NARA, San Bruno) were remarkably similar. All four immigrated using an affidavit that stated, “I claim his admission to the U.S. on the ground of his being a son of a citizen of the United States” (Wong Yoke Fun [*sic*], 1910, NARA, San Bruno). The sons’ immigration files are replete with documents that illustrate a claimant’s attempt to prove and immigration authorities’ attempts to disprove the relationship.

*James Wong’s Claims (1926 and 1947): Acquired Citizenship  
(Jus Sanguinis) and Race*

From 1790, children born abroad to U.S. citizen parents could claim U.S. citizenship by descent. In 1855, Congress clarified that the right was limited to the children of U.S. citizen fathers, not mothers. Chinese exclusion and a finding of the birthright citizenship of U.S.-born children led to the development of the phenomenon of Chinese paper sons, in which a visit back to China provided an opportunity to sell a place to another family who wished to immigrate (Chin 2000; Ngai 2005). Immigration and Customs Bureau officials came to presume fraud in the case of every individual who attempted to enter the United States from China, leading to an especially harsh documents regime for such U.S. citizens.

Agents settled on the use of long interviews to challenge the documentary evidence of a father-son relationship. In 1910, an official questioned Wong Kim Ark’s eldest son, Wong Yok Fun, at the newly opened Angel Island immigration facility in San Francisco Bay. The interview involved hundreds of questions and included a diagram of Ong Sing village in China and descriptions of the inhabitants of every one of the thirty-five houses in the village. After the interview, Chinese inspector Heitmann wrote to the chief Chinese inspector at Angel Island, suggesting they pose similar questions to Wong Kim Ark and ask him to draw a diagram of the village (Letter to Commissioner Immigration San Francisco,

1910, NARA, San Bruno). The interview occurred in El Paso, Texas, four days later, and a witness corroborated Wong's testimony.<sup>7</sup> The inspector noted in his report that the nativity and "essential trip of alleged father" were established, but that numerous discrepancies existed between the father's and son's testimonies, of which just ten discrepancies (among hundreds of responses) were noted. Four were found to be material: the age of the child when his grandmother died, whether Yok Fun was working after he quit school, the number of houses between their house and their uncle's house in the village, and the denomination of currency that Wong Kim Ark sent to his wife in China when the son was six years old. On the basis of those discrepancies, the application to land was denied in December. In January 1911, Wong's eldest son was returned to China.

Wong's three other sons immigrated successfully between 1924 and 1926, showing that the family developed expertise facing this harsh documents regime. In the interview of the third son, Wong Yok Thue (Wong Yok Thue file, NARA, San Bruno), his father and his brother acted as "friend" and "testifying relative." Thus the father was the upstanding citizen, and the brother could attest to his younger brother's birth in China. Immigration agents asked Wong Kim Ark 56 questions, his second son 91 questions, and the intending immigrant, Wong's third son, 150 questions. In nearly 300 questions, there was a single discrepancy. Wong Yok Thue entered the United States as a citizen, and the family immediately sent the youngest son to join him.

Immigration Bureau agents seemed to ease up in their scrutiny of Wong's youngest son, Wong Yok Jim. Wong Yok Jim entered the United States on July 23, after a shorter interview than those conducted with his elder brothers ("Heading for Testimony," U.S. Department of Labor, Immigration Service, July 23, 1926, NARA, San Bruno). Wong Kim Ark, now fifty-seven, was interviewed first and showed documentary proof that his son had been born in China in 1914. In the course of his interview Wong promised to send the boy to an American school, a statement that carried weight in the outcome. The applicant himself was eleven years old, but that did not prevent immigration agents from directing dozens of questions his way. He identified himself as Wong Kim Ark's son, but since his mother would have been forty-six when he was born, it is possible that he was Wong Kim Ark's grandson, a son of the son whose entry had been refused in 1910. Moreover, in the interview Wong Yok Jim identified a nephew his own age living in his house in China, along with his mother, his grandmother, his eldest brother, and his brother's four children, sons aged fifteen, eleven, and nine and a daughter aged three. Because no sister-in-law is mentioned, and his brother's children are the same ages his siblings would be,

Wong Yok Jim may have been the son and not the brother of Wong Kim Ark's eldest son, Wong Yok Fun.

The documents regime that the Wong family challenged successfully in the 1920s remained in place through World War II. Decades later, Yok Jim's son faced his own interview with the Immigration Bureau. Like his father and brothers, Yok Jim had gone back to China and married. His immigration file noted that when Yok Jim was returning to the United States in 1931, his wife in China was four months pregnant. His son was born the following year. In 1947, Wong Yok Jim, now a U.S. Navy veteran known as James Y. Wong, applied for his "blood son," Wong Hee Ngew, to enter as a citizen. The latter file included a notarized affidavit (Wong Hee Ngew file, NARA, San Bruno) from James Wong that "due to the lack of vital statistics records in China, there is no birth or baptismal record covering the birth of his said son."<sup>8</sup>

The interview of the fifteen-year-old boy shows that the same documents regime remained in place, but the presumption of fraud no longer was in effect.<sup>9</sup> The child's mother had died in November 1946 at Ong Sing village, in China. His grandmother (Wong Kim Ark's wife), aged seventy-five, was still alive in the village, the only living relative the boy had in China. There was no questioning of the father and son separately. The son had no idea whether his father had ever been in China. He knew none of his father's brothers or nephews or nieces and did not mention the death of his presumed grandfather, Wong's eldest son. He did not know where anyone had gone to school or their occupations. When asked what evidence he had to show that he was the son of James Wong, he replied, "Only my testimony" ("Statement of Applicant and Relative of Applicant for Entry," 1947, NARA, San Bruno). His testimony was quite powerful, and in two questions one gets the sense that the interviewer had already recognized him as a citizen. When asked why his mother died, the boy said, "When my father was in the Navy, my mother worried a lot. She was always crying. She got sick and she finally died." Asked whether the family had had enough to eat during the war, he replied that they had not. "Mostly we had soup. The soup was made of what vegetable we could get and some salt." The interview was immediately concluded after that, and the child was admitted as a citizen.

The recognition and acceptance of James Wong's son just after World War II contrasts with cases of other children of American veterans born in Asia in the ensuing decades, presented later in the chapter. I am struck, however, by the similarity of the case to that of the mother who was stranded in Uganda. Both cases dealt with children of "deserving" American citizen parents, she by her race, gender, and class position, he by his recent service in World War II.<sup>10</sup> In both cases children's lives were in peril, hers because the children might be

left in an impoverished orphanage in Uganda, his because the child had lost his mother and had recently been very hungry. It is true that many children had been held at Angel Island in the preceding decades who must have looked quite pitiable to immigration officials. In this case, however, the boy looked pitiable and deserving.

One last difference between the recognition of Wong Hee Ngew as a citizen and other children who have tried to claim citizenship: his parents of the same “race” were legally married. Race, marital status, and gender have mattered in birthright citizenship policies, as is evident from the documents regime that developed for U.S.-born women who married foreign men early in the twentieth century.

*Ethel Mackenzie’s Citizenship (1915): Jus Soli and Gender*

In the second half of the nineteenth century, U.S. policies favored a single family nationality (Bredbenner 1998; Collins 2011; Cott 2000). After 1855, foreign-born women who married American men were automatically granted citizenship. In that same period, a single passport could be used for a man, his wife, and children. A married woman could apply for her own passport, but she had to show a need to travel separately from her husband. And starting at the height of “new immigration” in 1907 and lasting until between 1922 and 1952, Congress deprived U.S. citizen women of their citizenship if they married foreigners.

This was the documents regime Ethel Coope faced in 1912 when she tried to register as a newly enfranchised California voter. Coope was born in Redwood City, California, in 1885. She first became politically active as a member of a group of progressive Republican women who formed an “insurgent movement” in Santa Cruz to pass woman suffrage legislation in California. When she moved to San Francisco, she continued her activism there and joined the Club Women’s Franchise League of California (Salomons 1915). At age nineteen, Coope married her music teacher, a Scottish balladeer twice her age, Peter Gordon Mackenzie. Like Coope’s recently deceased father, Gordon Mackenzie was a British citizen, a longtime resident who had not naturalized.<sup>11</sup> Journalists from the *San Francisco Examiner* and the *San Francisco Call* followed closely the saga of the young suffragist who married the older, flamboyant local celebrity. After women won the right to vote in California in 1911, Ethel Mackenzie applied to register to vote for the 1912 election “with the rest of her sisters.” Registrar J. H. Zemansky refused her application on the grounds that she had lost her citizenship when she married a foreigner.<sup>12</sup>

Mackenzie's case exposes the fragility of documents regimes and the way the requirement to prove citizenship was available for political manipulation. There is no mention of a request to provide her marriage certificate, and the document would have been unnecessary, since she was widely known to be married to the Scotsman. In 1912, evidence used to prove citizenship for voting purposes varied across districts based upon the presence of party challengers and the requirements of the local election judge. Evidence could include physical appearance, collective memory of an applicant or group of applicants (Robertson 2010), or the applicant's word (*Lynch v. Clark* 1844). In this case a local official appropriated a national law and applied it beyond its original intent. Congress had passed the legislation in 1907, at the height of the wave of "new immigration" from southern and eastern Europe (Nicolosi 2000; Volpp 2005). The law, subtitled "An Act in Reference to the Expatriation of Citizens and Their Protection Abroad," was intended to apply to women who married and moved abroad permanently with their foreign husbands. By the time it stopped Ethel Mackenzie from voting, the law was being applied at home for local political reasons.

The way Mackenzie responded (*San Francisco Call*, February 4, 1913) called into question the law's authority to divest citizenship and drew on her own claim of respectability as proof against a public charge of being a false citizen. "Pickpockets, murderers, embezzlers and ex-convicts of all kinds are deprived of the right of suffrage," she complained, "but I have done nothing criminal unless it be a crime to marry a foreigner." Mackenzie then exclaimed, "If (marriage to a foreigner) constitutes a crime in America, I am perfectly willing to have my Bertillon [*sic*] measurements placed in every rogues' gallery in the world." In citing Bertillon, Mackenzie made a direct reference to a new technique being employed at the State Department in passport applications. A Frenchman named Bertillon had invented an anthropometric system for classifying criminals by physical descriptions and photographs (Kuluszynski 2001). The technique was first used to assess criminal fraud in Chinese immigration and citizenship cases (Lee 2003). Mackenzie clearly believed that unlike criminals and fraudulent claimants, she deserved U.S. citizenship and the right of suffrage. She sued on a writ of mandamus, asking the court to direct the Election Commission to register her. In *Mackenzie v. Hare* (1915), the Supreme Court rejected her citizenship claim.

Marriage has served as both a citizenship-enacting and a citizenship-divesting institution, and the marriage certificate has been used alone to document citizenship claims (Volpp 2005). A woman's marriage certificate has at

times proved citizenship, but in the case of U.S. citizen women who married foreigners, it proved expatriation. Ethel Coope Mackenzie finally regained her citizenship in January 1921 when her husband renounced his allegiance to Great Britain and naturalized as a U.S. citizen. Her husband alerted the press (*San Francisco Examiner*, December 9, 1915) that he intended to give Ethel “a Christmas gift that the Supreme Court of the United States could not give her: the gift of citizenship.” One of the first acts of enfranchised women was to reverse this law, though it took decades longer for the reversal to apply to American women who married citizens of Asian nations.<sup>13</sup>

American women gained the right to transmit citizenship in 1934 (Bredbenner 1998; McKenzie 2011). Just six years later, in 1940, Congress passed legislation that created a new documents regime for the children born abroad of unmarried American men that endured with minor changes through World War II and the Cold War, and that remains in place today. Among the estimated hundreds of thousands of possible birthright citizenship claimants was the son of a U.S. citizen born in Vietnam.

### *Conclusion*

Documentary regimes have existed with various historical designs and purposes, but in general they have upheld the racial state. Throughout the twentieth century and into the twenty-first, on the front lines of U.S. birthright citizenship policy, whether in U.S. embassies or consulates abroad, at the border, in the war zone, or at the local polling place, establishing credibility as a citizen has been more difficult for citizens of color. The documents regime that developed for Wong Kim Ark and his descendants evidenced a complicated racialized regime with a classist element. Every case was assumed fraudulent, and immigration officials challenged the validity of documents that proved citizenship. They even tried to claim people born in the United States of Chinese descent should not be citizens at birth. That officials used the documents regime to deny the right to transmit citizenship to children born to U.S. citizen fathers in China challenged men’s gendered right to transmit citizenship. Only after military service in World War II did Immigration Bureau officials view the son of a Chinese American claimant, born abroad, as deserving.

Gender has also been a significant factor in citizenship claims, a factor complicated by claimants’ race(s). The marriage certificate has been used as evidence of citizenship and of expatriation in U.S. history. After Congress passed legislation seeking to expatriate U.S.-born women who married foreign men and

moved abroad with their husbands, the San Francisco elections registrar determined that a suffragist who married a foreign man but stayed in the United States had expatriated herself. The case evidences how easily local officials applied national immigration laws to disenfranchise citizens. It also underscores the importance of being found deserving of citizenship. Ethel Mackenzie's protests focused on her loss of respectability for being called a false citizen. Even when, in 1922, many U.S. women regained the right to retain their native citizenship upon marriage to a foreigner, a husband's race prevented U.S.-born women who married Chinese or Japanese nationals from retaining their citizenship for up to three decades longer.

Children born outside of marriage to U.S. servicemen and foreign mothers have had difficulty proving their claims; consular officers are encouraged to scrutinize the foreign mother in order to determine whether the child deserves citizenship. The son of an American military contractor and veteran, Tuan Anh Nguyen claimed citizenship as protection against deportation in 1997. That Nguyen's father recognized his son from birth and raised him, or that the U.S. government recognized the relationship when it airlifted the child to the United States made no difference. A Supreme Court decision in 2001 rejected the son's claim to citizenship and defended the differential documentary requirements in place to prove citizenship for the children born abroad of male and female citizens. State Department instructions confirm its continued reliance on consular officers' judgments—of foreign mothers and of putative U.S. citizen fathers and children's racial compatibility—in *jus sanguinis* citizenship cases. Outcomes of citizenship claims in these cases rely both on documents and on what a consular officer "knows" about the case.

Citizenship claims are most often about exercising rights. Individuals have claimed citizenship to inherit an estate, to secure freedom from slavery, to vote, and to enter into and to resist deportation from the United States. In court cases the government often, though not always, appears on the opposite side of the case from the claimant, arguing against the individual's citizenship. Individuals offer their good reputations, their bodies, affidavits sworn by respectable witnesses, and eventually birth certificates, while the government challenges claims based on illegality and presumption of fraud. In rarer cases the claimant seeks to refuse U.S. citizenship to avoid one responsibility or another, often military service or taxes. In every case the initial judgment is made by an individual government bureaucrat who relies both on an examination of documents and on her or his own perception of the credibility of the applicant. The official's decision reflects moral and political judgments related to the

claimant's race, gender, and social class. Local prejudices, such as the one that stopped Ethel Mackenzie from voting in California in 1912, can be magnified into federal policy that affects many others.

#### NOTES

I thank Torrie Hester, Debra Majeed, Linda Sturtz, and Russ Read for their comments and suggestions that helped improve this chapter. Any errors are, of course, my own.

1. Documents have become central to proof of status, causing some immigrants of color to feel the need to acquire as many as possible. See Chang 2011.

2. Race in U.S. citizenship cases is well explored in Carbado 2005; Haney-Lopez 1996; Lee 2003; Ngai 2005; and Volpp 2005.

3. These dates refer to the date Wong Kim Ark entered the United States without documentation (1881) and the date his grandson Wong Hee Ngeu entered the United States (1947).

4. Congress passed Chinese exclusion legislation in 1882, extended it in 1892, and made it permanent in 1902. Other Asian groups were added to the exclusion between 1907 and 1924. Asian exclusion ended between 1943 and 1952. Immigration laws from *Reports of the Department of Commerce and Labor*, 1907, 136; William Williams quote from "Notice Concerning Manifesting of United States Citizens and Inspection of Cabin Passengers," April 11, 1912, RG 85, quoted in Robertson 2010, 180.

5. Statement of Frederick Berna to F. A. Bee, consul, July 16, 1890; Statement of Hoo Sue, merchant, in United States since 1852, July 18, 1890. See "Investigation of Truth of Claim to Birth in the United States," by "J.S. Treasury Department," Wong Kim Ark file, NARA, San Bruno.

6. *U.S. v. Wong Kim Ark*, 169 U.S. 649 (1898), 694.

7. Letter from F. W. Berkshire, supervising inspector (El Paso), to Commissioner Immigration San Francisco, December 10, 1910, Wong Yok Fun INS file, NARA, San Bruno. The second son, Wong Yok Sue, was initially refused, but he was accepted on review.

8. Fifty-one questions were asked of the applicant, and fifty-three of the father. The form looked similar to earlier question forms. The questions were similar to questions in previous interviews, but there were follow-up questions with spaces left blank. "Statement of Applicant and Relative of Applicant for Entry," File No. 1300-04770, November 18, 1947, Wong Hee Ngeu, aka Wong Nee Ngen, NARA, San Bruno.

9. Although the G.I. Fiancées Act, 1946, allowed servicemen to bring fiancées and their children to the United States for a limited period after the war, this case shows the same documents regime was in place. The law expired December 31, 1948 (Ling 1998, 114).

10. In a letter from his lawyer, Jackie Bing, Wong is referred to as "Citizen-veteran, ex ss 'Gen. Gordon.'" Letter from Chow and Bing to district director of the Immigration Service, November 1, 1947, NARA, San Bruno.

11. The 1900 census shows that Ethel's father, John Coope, had been born in England, was a "vinyardist," and had been in the United States for nineteen years without naturalizing.

12. "Mackenzie Gordon Will Claim Bride Today: Wedding of Singer and Miss Coope to Be Simple Affair," *The Call*, August 13, 1909. Mackenzie changed his name legally in 1917 to Mackenzie Gordon. "Gordon Mackenzie Asks Name Reversal," *San Francisco Examiner*, April 12, 1917. Note that this person is of no relation to the author. *Morning Call* endorsed woman suffrage in August 1911 (Solomons 1912, 29). See Chapter IV, California, in Harper 1922, 36–45; Freeman 2008; "Mrs. Gordon to Rescue of Voteless Women: Native Daughter to See Whether She's Alien Because Wife of Englishman," *San Francisco Call*, January 23, 1913.

13. The 1922 Cable Act ended the practice of automatic citizenship for foreign women and loss of citizenship for white native-born women. Women born in the United States and married to Japanese and Chinese nationals continued to be expatriated until the end of Asian exclusion laws. Other disabilities remained, highlighting for feminists the importance of seeking a broad equal rights amendment (McKenzie 2011, 131); "Mackenzie Is to Be Citizen to Aid Wife: Singer and Clubman to Renounce Allegiance to Britain to Enfranchise Wife in the U.S.," *San Francisco Examiner*, December 9, 1915; "Long Fight of S.F. Woman for Suffrage Ends: Mrs. Peter Gordon Mackenzie Once More Is Citizen of United States," *San Francisco Chronicle*, January 7, 1921. The discussion of women's suffrage in California in *The History of Woman Suffrage* refers to the *San Francisco Chronicle* as a most "relentless opponent" (Harper 1922, 46).