

United States v. Bhagat Singh Thind
261 U.S. 204 (1923)

MR. JUSTICE SUTHERLAND delivered the opinion of the Court. This cause is here upon a certificate from the Circuit Court of Appeals, requesting the instruction of this Court in respect of the following questions:

The U.S. Supreme Court



"1. Is a high caste Hindu of full Indian blood, born at Amrit Sar, Punjab, India, a white person within the meaning of section 2169, Revised Statutes?"

"2. Does the act of February 5, 1917 (39 Stat. L. 875, section 3) disqualify from naturalization as citizens those Hindus, now barred by that act, who had lawfully entered the United States prior to the passage of said act?"

Section 2169, Revised Statutes, provides that the provisions of the Naturalization Act "shall apply to aliens, being free white persons, and to aliens of African nativity and to persons of African descent."

If the applicant is a white person within the meaning of this section he is entitled to naturalization; otherwise not.

The conclusion that the phrase "white persons" and the word "Caucasian" are synonymous does not end the matter.

Mere ability on the part of an applicant for naturalization to establish a line of descent from a Caucasian ancestor will not ipso facto and necessarily conclude the inquiry. "Caucasian" is a conventional word of much flexibility, as a study of the literature dealing with racial questions will disclose, and while it and the words "white persons" are treated as synonymous for the purposes of that case, they are not of identical meaning — idem per idem.

In the endeavor to ascertain the meaning of the statute we must not fail to keep in mind that it does not employ the word "Caucasian" but the words "white persons," and these are words of common speech and not of scientific origin. The word "Caucasian" not only was not employed in the law but was probably wholly unfamiliar to the original framers of the statute in 1790.

But in this country, during the last half century especially, the word by common usage has acquired a popular meaning, not clearly defined to be sure, but sufficiently so to enable us to say that its popular as distinguished from its scientific application is of appreciably narrower scope. It is in the popular sense of the word, therefore, that we employ it as an aid to the construction of the statute....

They imply, as we have said, a racial test; but the term "race" is one which, for the practical purposes of the statute, must be applied to a group of living persons now possessing in common the requisite characteristics, not to groups of persons who are supposed to be or really are descended from some remote, common ancestor, but who, whether they both resemble him to a greater or less extent, have, at any rate, ceased altogether to resemble one another. It may be true that the blond Scandinavian and the brown Hindu have a common ancestor in the dim reaches of antiquity, but the average man knows perfectly well that there are unmistakable and profound differences between them today; . . .

The term "Aryan" has to do with linguistic and not at all with physical characteristics, and it would seem reasonably clear that mere resemblance in language, indicating a common linguistic root buried in remotely ancient soil, is altogether inadequate to prove common racial origin. There is, and can be, no assurance that the so-called Aryan language was not spoken by a variety of races living in proximity to one another. Our own history has witnessed the adoption of the English tongue by millions of Negroes, whose descendants can never be classified racially with the descendants of white persons notwithstanding both may speak a common root language.

What we now hold is that the words "free white persons" are words of common speech, to be interpreted in accordance with the understanding of the common man, synonymous with the word "Caucasian" only as that word is popularly understood. As so understood and used, whatever may be the speculations of the ethnologist, it does not include the body of people to whom the appellee belongs. It is a matter of familiar observation and knowledge that the physical group characteristics of the Hindus render them readily distinguishable from the various groups of persons in this country commonly recognized as white. The children of English, French, German, Italian, Scandinavian, and other European parentage, quickly merge into the mass of our population and lose the distinctive hallmarks of their European origin. On the other hand, it cannot be doubted that the children born in this country of Hindu parents would retain indefinitely the clear evidence of their ancestry. It is very far from our thought to suggest the slightest question of racial superiority or inferiority. What we suggest is merely racial difference, and it is of such character and extent that the great body of our people instinctively recognize it and reject the thought of assimilation.

It is not without significance in this connection that Congress, by the Act of February 5, 1917, c. 29, §3, 39 Stat. 874, has now excluded from admission into this country all natives of Asia within designated limits of latitude and longitude, including the whole of India. This not only constitutes conclusive evidence of the congressional attitude of opposition to Asiatic immigration generally, but is persuasive of a similar attitude toward Asiatic naturalization as well, since it is not likely that Congress would be willing to accept as citizens a class of persons whom it rejects as immigrants.

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Read section 1, 2, and section 2169 at the beginning. What are the issues that the court is dealing with here? Who is included in what? List it out if possible...

What does the court say the term "Caucasian" means? Why do they use 1790 as a date of reference for the word?

When they say that the word "Caucasian" has a 'Popular Meaning', what does this mean? Why do you think they mention this?

The court opinion states,

"It may be true that the blond Scandinavian and the brown Hindu have a common ancestor in the dim reaches of antiquity, but the average man knows perfectly well that there are unmistakable and profound differences between them today"

What do you think they mean by this? What are the differences that they speak of?

What does the court mean when the opinion mentions "Aryan" and the linguistic or language associated with it?

What does the court say about European Immigrants and South Asian Immigrants?

“The children of English, French, German, Italian, Scandinavian, and other European parentage, quickly merge into the mass of our population and lose the distinctive hallmarks of their European origin. On the other hand, it cannot be doubted that the children born in this country of Hindu parents would retain indefinitely the clear evidence of their ancestry...

What does the court mean with the following?

“ It is very far from our thought to suggest the slightest question of racial superiority or inferiority. What we suggest is merely racial difference, and it is of such character and extent that the great body of our people instinctively recognize it and reject the thought of assimilation.”

Does the Bhagat Singh Thind Case challenge the segregation and racism against people of color especially concerning African Americans? Is this problematic?

Naturalization is the process by which U.S. citizenship is granted to a foreign citizen or national
What is the court's opinion in the last paragraph, and what does it say about naturalization?

