FORBIDDEN LOVE:
IMMIGRATION AND CITIZENSHIP LAWS AS
RESTRICTIONS ON INTERRACIAL MARRIAGE

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INTRODUCTION

“You helped me to find my lost identity and now I know who I am.”

In 2011, I wrote a law review article about an obscure 1947 immigration case involving a Japanese war bride who was denied entry into the United States and ordered deported—an extraordinary action intended to separate her from her white American soldier husband.¹ The story of Helene Emilie Bouiss (Emilie), a half-Japanese, half-white woman, and her white husband, John Bouiss, with its dramatic turns of love and justice thwarted, fascinated me. My article argued that there are gaps in our understanding of U.S. anti-miscegenation history—gaps that are rendered visible when we disrupt the conventional wisdom that restrictions on interracial marriages were exclusively the products of state-level laws in the segregated South. Emilie and John’s story showed that thousands of miles from the U.S. borders, in places like Japan and other parts of Asia, restrictions against interracial marriages were implemented and enforced by the federal government. Contrary to the conventional wisdom, which posits southern states as the villains in the struggle for civil rights and the federal government as a hero in vindicating individual rights, the Bouisses story paints a more complicated picture. One in which the federal government, in its expression of military might, articulated and enforced the borders of intimate life.

But these federal restrictions on interracial unions were different from their more familiar state counterparts. Unlike state anti-miscegenation laws such as Virginia’s Racial Integrity Act

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which made it “unlawful for any white person in this State to marry any save a white person,” no single federal law or policy explicitly banned interracial marriages. Instead, the federal anti-miscegenation system that operated between 1945 and 1952 relied on a combination of military policies, anti-Japanese (and anti-Asian) immigration laws, and citizenship laws that banned all immigrants except those who are white or of African descent from naturalization, to prohibit mixed-race marriages. And if the interracial couples somehow evaded this system of federal marriage restrictions and obtained a legal marriage by other means, the federal government effectively punished them by separating them through immigration laws.

My article not only highlighted this underexplored form of anti-miscegenation regulation, but also challenged the typical framing of interracial marriage restrictions that focused on the experience of white and Black couples. I showed that the system of federal anti-miscegenation laws primarily aimed to deter white men from marrying Japanese women, or in John and Emilie’s case, punished married interracial couples who disobeyed the restrictive laws by disallowing the entry of Japanese wives to the United States.

In exploring Emilie and John’s story, I learned that injustice relentlessly followed Emilie’s family. I discovered that Emilie’s daughter from her first marriage, Vivienne Wilson, who was also half-Japanese and half-white, and her white fiancé, James Vaughn, were denied the ability to marry in Japan. James returned to the United States to figure out how to bring Vivienne, and later their daughter, Mary Ann Vaughn, to the United States. In a footnote in the article, I explained that it took the intervention of a U.S. Senator and an act of Congress to pass the law that allowed Vivienne and Mary Ann to overcome their racial immigration inadmissibility and enter the United States.
More than a year after I published the article, somewhere in Tokyo, Japan, a 63-year-old, mixed-race Japanese woman, Marianne Kuroda, encountered it by chance. In utter disbelief, Marianne realized that the main subject of the article, Emilie, was her grandmother. She reached out to me and explained that she was the “Mary Ann” in my article (the spelling of her name changed to “Marianne” when she was seven years old). To my shock, Marianne revealed that, despite the Senator’s efforts and the enactment of the law, she and her mother never made it to the United States. Vivienne died when Marianne was a baby and Marianne was raised in Japan by a guardian who hid her from her father. Consequently, she never met her father, James. After reading my article, Marianne put pieces of her life together and she identified a path that might right the wrongs that changed all of their lives so many years ago. She asked if I would help her seek justice for her family, and I said yes.

This book, *Forbidden Love: Immigration and Citizenship Laws as Restrictions on Interracial Marriage*, shares the stories of three generations of women—Emilie, the war bride, Vivienne, her doomed daughter, and Marianne, the “illegitimate” child—and how they and their loved ones fought the federal government’s discriminatory actions against them. Their stories, neglected until now, illustrate how the federal government endeavored to deter and limit interracial marriages and promote white supremacy by denying the admission of Japanese wives or fiancés to the United States, consigning their mixed-race children illegitimate birth, and refusing to recognize the children as U.S. citizens unless they overcame overly rigorous technical legal requirements. Where relevant, the book also discusses the role I played in bringing these stories to light and the efforts I and other advocates played in helping Marianne achieve a small measure of justice.
By weaving together the stories of Emilie, Vivienne, and Marianne, as well as those of other Japanese war brides and their families, *Forbidden Love* surfaces the way in which the federal government, as much as the states, was an active participant in the effort to deter interracial marriages and perpetuate a system of racial caste in the United States. It explains how, using a complex web of immigration laws, military policies, and citizenship rules, the federal government actively policed the borders of the heart—and what it meant to be a family, a citizen, and an American.

In this regard, *Forbidden Love* is not only a book about the overlooked stories of mixed-race American families but also a book about the nation itself. The federal government’s ability to racially engineer the United States’ populace by controlling who can immigrate, marry a citizen, and gain citizenship is about the project of nation building. This racial history has left a painful legacy that has contemporary implications. Exploring this history is useful not only for understanding the past but also analyzing how to redress the harms caused by these laws. It is not too late to atone for the sins of this racial discrimination.

The book is organized around three central themes. The first section of the book focuses on “inadmissible brides” and examines how the system of federal anti-miscegenation laws relied on racially exclusionary citizenship and anti-Asian immigration laws in ways that affected mainly Japanese women and white male soldiers. The second section uses the theme of “illicit romance” to analyze more in-depth how the federal anti-miscegenation laws served to prohibit marriage applications submitted by white male U.S. citizens who desired to marry Japanese women. The third section examines the “love child” and how the laws that restricted interracial marriages in Japan foisted illegitimacy on children, which affected their claims to citizenship. The last section focuses on Marianne’s quest to gain recognition as a “legitimate citizen” and concludes with by
reflecting on what this history tells us about the meaning of citizenship today. It also explores potential ways of remedying the contemporary consequences of this history, including how citizenship may be a form of reparations for the children of these mixed-race couples.

**Part I: Inadmissible Brides**

*This part focuses on Emilie Bouiss as representative of racially “inadmissible brides” to explore how the federal government deployed immigration and citizenship laws to restrict the admission of Japanese war brides to the United States. These chapters argue that Emilie’s exclusion from the U.S. border as a Japanese who was “ineligible to citizenship” is part of the broader history of racist immigration and citizenship laws designed to promote white supremacy. In narrating Emilie and her husband, John’s story, this part also illuminates their courageous fight against the federal government’s quest to ban Emilie from the United States and separate them from each other. Their resistance eventually paved the way for hundreds of Japanese war brides to gain temporary admission to the United States in 1947 and 1950, which ultimately paved the way for the lifting of racist bans on citizenship and immigration laws in 1952.*
Chapter One begins with Emilie and John Bouiss’s story. It first situates the book within the larger historical context of war-ravaged Japan at the end of World War II. The United States and Allied powers’ occupation of Japan fundamentally shaped the political, economic, cultural, and social conditions of this country. Amidst the ashes of devastation and despair, the soon-to-be lovers met in November 1945. Emilie, who was born in Japan and racially half-Japanese and half-German, was Swedish national based on her marriage to a Swedish national. Divorced with a sixteen-year-old daughter (Vivienne), Emilie met John, a white American soldier at a hospital where Emilie went to get medical assistance. The couple soon fell in love and asked for permission to marry. They wanted to marry not only because they wanted to spend the rest of their lives together but because it would have allowed Emilie to immigrate to the United States. Under the newly passed War Brides Act of 1945, John could sponsor Emilie as his “war bride,” which would have (theoretically) allowed her entry to the United States. But military regulations prohibited U.S. servicemembers from marrying persons who were “racially ineligible” for citizenship. To be racially eligible for naturalization, an immigrant had to have more than “fifty-percent white blood.” Emilie, who is half-German and half-Japanese, fell within the “racial ineligible” category and thus John’s application to marry her while they were still in Japan was denied. Unable to marry in Japan, the couple decided to move to the United States after John was honorably discharged in May 1946 and marry in a state where there were no anti-miscegenation laws. While aboard the ship carrying them, the couple convinced the captain of the ship to marry them. Their wedding bliss ended, however, upon landing in Seattle. Emilie was deemed racially not admissible to the United States despite her war bride status. Border officers detained and processed for deportation.

Chapter Two explains that central to knowing how the system of federal anti-miscegenation regulation operated is understanding that it relied on a combination of military
regulations that enforced anti-Asian immigration laws and citizenship laws that limited naturalization to white immigrants and immigrants of African ancestry. This chapter argues that these anti-Asian exclusionary immigration and citizenship laws were passed to promote white supremacy by favoring on the one hand white immigrants to gain admission to the United States and on the other hand, banning Asian immigrants from the country’s borders. Some laws, like the Chinese Exclusion Act, explicitly used race to exclude immigrants. Some laws, such as those that used the terms “ineligible to citizenship” to deny entry to immigrants, appeared to be race “neutral” but they were in fact euphemism for the exclusion of Chinese, Japanese, and other Asian immigrants. Implementation of federal anti-miscegenation regulation required a complicated administrative bureaucratic system that interfaced with various federal agencies and military officers. By adopting a policy that prohibited marriages to Japanese because they were “ineligible to citizenship,” the military enforced the federal government’s immigration and citizenship laws. Indeed, by denying marriage applications of servicemembers who wanted to marry Japanese women, military officers essentially functioned like immigration officers who policed U.S. borders. Rejecting the marriage applications of servicemembers who were stationed in Japan while approving marriage applications of servicemembers who were deployed in Europe, the military supported immigration law’s racial restrictions and effectively helped to shape the racial make-up of the country.

Chapter Three details Emilie and John’s fight to be together and highlights how racism was at the heart of her immigration exclusion. The chapter narrates the administrative process, explaining the broad discretionary power that immigration officers have in excluding immigrants who are seeking entry to the United States. The administrative process relies on immigration regulations defining how much “white blood” quantum was necessary to evade racial exclusion.
Neither being a half-German nor her status as a war bride was enough to overcome Emilie’s racial inadmissibility. Emilie was placed in detention for three months. John visited Emilie once a week while trying to find a lawyer to advocate on their behalf. The chapter details the administrative process that aimed to deport Emilie and how John used his status as a U.S. citizen husband to seek to free his war bride from detention. Despite arguing that as a citizen, John was entitled to be with his wife and not be separated from her, immigration officers concluded that Emilie must be deported. This decision is upheld by the Board of Immigration Appeals and left the couple to fight her deportation in federal court.

Chapter Four describes the judicial challenge to Emilie’s deportation and the ups and downs of the litigation. With the help of lawyers, John petitioned for habeas corpus to get Emilie released from detention. An advocacy group, the Japanese American Citizens League (JACL), provided additional support to John’s legal team. The question that the federal district judge faced was whether Congress, when it passed the War Brides Act, intended for racially inadmissible immigrants to be admitted by virtue of their marriage to U.S. servicemen. Siding with Emilie, the district court held that she is admissible. The federal government, however, appealed the case to the U.S. Court of Appeals for the Ninth Circuit, which reversed the lower court, holding that Congress did not intend the War Brides Act to overrule Emilie’s racial inadmissibility. That meant that Emilie would be processed for deportation. Fortunately for John and Emilie, their story captured the sympathy of the public and advocates because her case revealed that there were hundreds of Japanese wives who were separated (or would be separated) from their American husbands. Congress introduced an amendment in 1947 and then again in 1950, which lifted the racial restrictions against Japanese war brides to immigrate to the United States and reunite with their husbands. Overall, the amendments allowed the admission of more than 700 Japanese war
brides to the United States and set the path for the permanent lifting of racially exclusionary immigration and citizenship laws in 1952.

**Part II: Illicit Romance**

The next three chapters center on the “illicit romance” between Vivienne Wilson and her fiancé, James Vaughn, and the extent to which the federal government impeded their desire to be together and raise their baby in the United States. In so doing, this part examines more in-depth how the federal government operationalized interracial marriage restrictions in Japan. As this part discusses, the U.S. military adopted a policy reliant on anti-Asian citizenship laws and anti-Japanese immigration laws that led military officers to decide who may marry, live together, and be recognized as a “legitimate” family. Like the previous part, this part not only examines the laws but also underscores the valiant ways that Vivienne and James attempted to overcome the ban against Japanese immigrants so that the couple could live together in the United States. By
Chapter Five introduces Vivienne Wilson (Emilie’s daughter) and James Vaughn. Vivienne, who was born in Japan but a Swedish national (due to her parents’ Swedish nationality), was “racially” half-Japanese, half-white (one-quarter German and one-quarter Swedish). She was 17 years old when she met and fell in love with 21-year-old James Vaughn, a civilian who was working for the military. By narrating their story, this chapter explores the barriers that Vivienne and James to getting married due to the system of federal anti-miscegenation laws. Adamant about being together, the couple obtained a religious ceremony. The two subsequently lived as a married couple in Japan. But they experienced harassment and threats from various individuals, including American servicemembers. Ultimately, James believed that it would be better for them if he returned home and figured out a way to bring Vivienne to the United States. In April 1948, James returned to the United States, leaving Vivienne who was at the time pregnant with their baby.

Chapter Six explores the connections between the experiences of interracial couples in Japan and interracial couples in the United States with respect to forming families. States have long been considered to have traditional oversight over family law. By contrast, the federal government is generally perceived to have no governance in family regulation. But the federal government has long enacted laws, including immigration and citizenship laws, that regulated, restricted, or supported the ability of individuals to form families and live together in the United States. The federal government’s deployment of military policies that relied on anti-Japanese immigration laws and racially exclusionary citizenship laws illustrate the type of underattended
federal involvement in family law regulation. Although each of these laws—military, immigration, and citizenship—did not specifically ban interracial marriages (like their state anti-miscegenation counterparts), collectively they restricted marriages along racial lines. Military supervisors primarily denied applications of white soldiers who requested to marry Japanese women. By contrast, they approved at a higher rate the applications of Japanese American soldiers who asked to marry Japanese women. The discriminatory barriers to marriage and enjoying the benefits of marriage that Japanese/white couples experienced in Japan reveal struggles that were unique from but also like the experiences of mixed-race couples in the United States whose relationships were obstructed by anti-miscegenation laws.

Chapter Seven returns to Vivienne and James’s story and explains James’s efforts to bring Vivienne and eventually, their baby, Mary Ann, to the United States. Upon arriving in New Mexico, James immediately sought the assistance of a lawyer who advised him that the best course of action was to obtain a private bill enacted in Congress. Private bills are laws passed by Congress that benefit specific individuals. Notably, until 1952 when racially exclusionary immigration and citizenship laws were lifted, private bills were the primary way that Japanese nationals could immigrate to the United States. James had moved to Nevada for work in 1949 and requested the assistance of Nevada Senator Pat McCarran. By the time James wrote to Senator McCarran, Vivienne and James’s daughter, Mary Ann Vaughn, was born. Fortunately for James and Vivienne, Senator McCarran agreed to sponsor a private bill. The bill provided that both Vivienne, who was recognized as James’s fiancé, and Mary Ann, who was referred to as the “natural born alien daughter” of James, would be admitted to the United States. The bill passed on August 5, 1950. Tragically, Vivienne died of tuberculosis in Japan on the day that the bill passed Congress. James
lost contact with Mary Ann. He and his parents continued to search for her through his friends in Japan, but they were not able to find her.

**Part III: Love Child**

The next three chapters focus on Marianne, the “love child” of Vivienne and James. This section primarily examines the impact of the system of federal anti-miscegenation laws on children of Japanese and American soldiers in Japan. Many American fathers returned to the United States without reconnecting with their children. Many Japanese women who felt ashamed of being unmarried and with child gave up their children for adoption. The chapters discuss how Marianne and other children like her whose parents could not marry had the status of illegitimacy foisted upon them. These non-marital children, like Marianne, in turn faced various legal issues, including custody, guardianship, and citizenship.

Chapter Eight explains what happened to “Mary Ann” after her mother, Vivienne died in August 1950, and the drama that ensued regarding her guardianship. Mary Ann, who was sixteen months old when Vivienne died, was placed under the care of her grandfather, John Wilson (her mother’s father) who was at the time residing in Japan. It was not clear whether John was in contact with Mary Ann’s father, James. In 1951, John returned to Sweden and asked Fumi Yamaguchi,
Mary Ann’s nanny when Vivienne was still alive, to care for her until he can send for her. However, when it was time for Mary Ann to leave for Sweden, Fumi absconded with the baby and cut off communications with the Wilson family. Fumi raised Mary Ann as if she were her daughter and later told her that her American father abandoned her after her mother passed.

Chapter Nine explores Mary Ann’s story to examine how the intersections among race, citizenship, and “illegitimacy” affected the lives of children of Japanese women and American soldiers and civilians, including who should have custody over these non-marital children. Having lost contact with Mary Ann’s nanny, the Wilson family asked the Swedish government to assist them in finding Mary Ann. Once the Swedish government discovered Mary Ann, it sued Yumi Yamaguchi for legal custody. Ultimately, the Tokyo High Court ruled in the 1956 case of Sweden v. Yamaguchi that Mary Ann Vaughn is a Swedish citizen, and her legal name going forward will be “Marianne Wilson.” Marianne was placed under the guardianship of the Swedish ambassador to Japan. However, Marianne was allowed to have a continued relationship with Fumi, whom she referred to as her “Japanese Mommy.” The chapter ends with Fumi’s confession at her deathbed in 1975 to then twenty-six-year-old Marianne that her father did not abandon her. Fumi informed Marianne of her father’s identity and explained that he was in fact looking for Marianne after Vivienne died.

Chapter Ten fast-forwards to more than two decades since Marianne found out about her father’s identity, and she was ready to look for him. In the early 2000s, she began to ask various U.S. agencies to assist her in finding “James Vaughn.” She did not receive a response for years. But in January 2004, Marianne received a letter from the American Red Cross letting her know that they found her father. However, he was no longer alive. He died several months earlier, in February 2003. But Marianne discovered that her father got married and he and his wife, had a
son, Steve Vaughn. Marianne reached out to Steve and in March 2004, flew from Japan to New Mexico to meet Steve and his family. While in the United States, Marianne met other relatives as well. The chapter ends with a discussion of the State of New Mexico recognizing April 17, 2009, as Mary Ann Vaughn Day.

Part IV: Legitimate Citizen

The last part concludes with how Marianne, the once “illegitimate” child officially gained recognition as a U.S. citizen. These chapters explain the onerous process that non-marital children who are born outside of the United States must go through to prove that they were U.S. citizens at birth. In so doing, this part highlights how racist and sexist stereotypes shaped the development of citizenship laws in ways that led to discrimination against foreign-born individuals seeking citizenship based on gender and illegitimacy. This part explains how Marianne successfully challenged some of these discriminatory citizenship rules, which provides a blueprint for how
others like Marianne can be made whole through federal law and policy. As the chapters point out, easing the requirements for granting citizenship to non-marital children like Marianne provides a small measure of reparations for the federal government’s discriminatory actions against mixed-race couples and their children in Japan post-World War II. This part also ends with a reflection of what this history informs us about the meaning of citizenship today.

Chapter Eleven explains how Marianne successfully established that she was a U.S. citizen at birth by challenging contemporary citizenship laws that perpetuated racial discrimination and discrimination against non-marital children. Marianne claimed that she acquired U.S. citizenship from her U.S. citizen father. This was not easy because citizenship law makes it more difficult for non-marital children to prove their citizenship claim when seeking to do so from their U.S. citizen unwed fathers. Marianne had to prove that her father “legitimated” her before she turned eighteen years old, which are requirements not imposed on unwed mothers or married couples. Steve assisted Marianne in the summer of 2004, but his efforts and Marianne’s were unavailing.

Chapter Twelve discusses the second time that Marianne attempted to prove her citizenship. Between 2012 and 2016, I worked with clinic faculty and students at my then institution, the University of California Davis, School of Law, to gather evidence that would meet the rigorous requirements of citizenship law. Our strategy differed from the first time Marianne and Steve worked on her citizenship claim. We argued on Marianne’s behalf that requiring Marianne to meet the “legitimacy” requirements of citizenship rules reinstated unconstitutional anti-miscegenation laws and would have perpetuated white supremacy. The legal approach seemed to work because in 2016, Marianne’s application for citizenship was granted and she was recognized as a birthright citizen.
Chapter Thirteen concludes with reflections on the implications of these underattended stories about race, marriage, family, and citizenship shape our understanding of citizenship today.

**Family History**

1st Husband: John Wilson
½ Swedish & ½ Japanese

Emilie Bouiss
½ German & ½ Japanese

2nd Husband: John Bouiss
(US Citizen soldier)

Vivienne Wilson
½ Japanese, ¼ Swedish, ¼ German

Religious ceremony

James Vaughn
(US Citizen civilian)

Mary Ann/Marianne Wilson (Vaughn)
Kuroda

Divorced

Married on the High Seas
On August 14, 1945, a wave of jubilation and relief swept across the globe after it was announced that Japan had surrendered to the Allied Forces. Joyous crowds in many parts of the world celebrated the end of war, including in New York City’s Times Square. It was reported that by 10 p.m., nearly 2 million people had gathered to jointly commemorate this historic event together. Earlier that day, a photographer took a picture of a sailor kissing a woman dressed like a nurse. This picture would become one of the iconic celebratory images of the Victory over Japan or V-J Day.

Thousands of miles away, a different and more somber mood enveloped Japan. Listening to a radio broadcast, the people of Japan heard their leader, Emperor Hirohito, speak. “After pondering deeply the general trends of the world and the actual conditions obtaining in our empire today, we have decided to effect a settlement of the present situation by resorting to an extraordinary measure. We have ordered our government to communicate to the governments of the United States, Great Britain, China and the Soviet Union that our empire accepts the provisions of their joint declaration.” In a four-minute speech, Emperor Hirohito explained that he agreed to an unconditional surrender to the United States and the rest of the Allied Forces. This was the first time that Emperor Hirohito addressed the Japanese people and, indeed, for most Japanese, this was the first time they heard his voice. As some scholars noted, to many Japanese, the emperor was a
“living God.” And their God was telling them that after four years of bitter fighting and with several cities decimated due to bombings, including Hiroshima and Nagasaki, which suffered the world’s first atomic bombs, Japan lost the war, and it was indeed time for the war to end.

Two weeks later, on September 2, 1945, the surrender was formalized and officially ended World War II. The end of the war marked a turning point in Japan’s history and ushered in the beginning of the occupation of Japan by the Allied Forces. An impressive force of over 500,000 military personnel, mostly male soldiers and civilians arrived in Japan by the end of 1945. Many of those soldiers saw first-hand that the impact of World War II on Japan had been nothing short of devastating. Both conventional and atomic bombs claimed countless lives and reduced major cities to rubble. The aftermath left nine million Japanese people displaced, and many faced the grim realities of starvation and malnutrition. The Occupation of Japan, which would be led by the United States, was intended to help rebuild Japan while simultaneously ensuring that the country would no longer have military force.

Sometime in November 1945, amidst this background of devastation, the prospect of hope and a better life emerged for 39-year-old Helene Emilie Wagenknect Wilson (Emilie) as she entered a hospital in the City of Yokohama. Like many Japanese during and after the war, Emilie was emaciated and suffering from malnourishment. The hospital offered not only medical care but also food. But Emilie was different from many Japanese. For one, she is “hafu” or a mixed-race person, the daughter of a Japanese woman and a German man. Additionally, although born in Japan, Emilie was not a Japanese citizen at birth. Indeed, she comes from a line of family who were birthed in Japan but not considered Japanese ethnically, racially, or politically. Japan’s nationality law was based on citizenship by descent (known as *jus sanguinis*), which meant that children acquired the citizenship of their parents even if they were born in the country. Gender
norms layered on top of Japan’s nationality law in that married women acquired their husband’s citizenship. As applied to Emilie’s family, for example, Emilie’s Japanese mother, who was Japanese, lost her Japanese citizenship and acquired German citizenship upon marrying her German husband. Consequently, when Emilie was born, she gained German citizenship. And when Emilie was 19 years old and married her first husband, John Wilson, a Swedish citizen, she too became a Swedish national. John was another “hafu,” the son of a Japanese woman and a Swedish man. Their daughter, Vivienne Wilson, also considered “hafu” given Emilie and John mixed-race background, acquired Swedish nationality at birth. Emilie and John’s marriage ended in divorced in 1937. By the time Emilie walked into the hospital in Yokohama, she had been divorced eight years. At the hospital, Emilie met John Anthony Bouiss, a 30-year-old white American soldier from Oregon who was stationed in Japan. When John met Emilie, he was finishing up the last six months of his tour in Japan.

The two began to spend a lot of time together and before long, the couple fell in love. It is not clear how serious their relationship was going to be, but their relationship was no different from those of American soldiers and Japanese women that were forming at that time. Indeed, across the globe where more than 7.6 million U.S. servicemembers were already stationed outside of the United States, multitude of soldiers, mainly men, and locals, mainly women, were getting together. Some interactions were casual and intimate. Others were more serious and led to marriage proposals, if not marriages if they were allowed to marry in the country where the servicemember was located. Many other couples ended up having children together. Overall, a reported 75,000 to 100,000 marriages between military servicemembers and civilian men and non-citizen women had taken place near the end of the war. Many more were expected given the significant presence of U.S. servicemembers in many countries.
These binational marriages and families presented challenges for the U.S. military because the servicemembers wanted to bring their foreign spouses and any children that they had who were born abroad back to the United States upon being discharged from the military. But immigration law was complicated and imposed quota and other restrictions on non-citizens from certain countries that was predicted to create lengthy separation between the servicemembers and their spouses and children. Moreover, immigration law employed a cumbersome bureaucratic process that was ill-equipped to handle the sheer volume of applications.

These issues were well known to members of Congress even before the war ended. To address these concerns, legislation was proposed to expedite the immigration of the substantial number of “war brides” and, to a lesser extent, grooms. On January 4, 1945, Congressman Samuel Dickstein introduced H.R. 714, aiming to "facilitate the admission to the United States" of the spouses and children of U.S. citizens who had "served honorably in the armed forces." Various testimony during the hearings emphasized the urgency of facilitating the expeditious entry of thousands of military spouses to “uphold the rights of service members to have their families with them.” The proposed bill sought to simplify this by allowing soldiers to bring their spouses directly to the American Embassy to obtain approval for an entry visa from a consular officer. The bill also intended to waive certain statutory bars to admission to the United States, which would further expedite the admission of non-citizen spouses. Those who favored the bill expressed that without this legislation, it would be "utterly impossible" for government agencies abroad to handle such a volume. Congress eventually enacted the War Brides Act on December 28, 1945, which, as intended, simplified the admission process by designating the spouses as “non-quota immigrants.” The law also waived automatic inadmissibility bars against “physically and mentally defective” non-citizens from entry. Instead, upon arrival in the United States, the war brides (and grooms)
underwent a medical examination, and a medical officer would be informed of the health issue if there was one.

In April 1946, John received his discharge papers. By then, John had already asked Emilie to marry him, and she had said yes. He understood that the War Brides Act required that the U.S. citizen be married to the spouse that they wanted to bring to the United States. (In this regard, the War Brides Act served not only to support those servicemembers who had already married their foreign spouses, but it also encouraged those who were not yet married to do so.). But when John asked his supervisor for permission to marry Emilie, his request was denied. No doubt, John and Emilie were likely surprised and confused about this decision.

The military did not always restrict the personal and intimate decisions of servicemembers to marry. But at the beginning of World War II, as military personnel were deployed to foreign countries, including those populated primarily by people of color, the War Department implemented directives mandating prior approval for soldiers intending to marry foreign nationals. In 1939, Army Regulation 600-750 was issued, granting the Army the authority to promptly discharge and deny reenlistment to certain soldiers who married without permission. A few years later, on June 8, 1942, the War Department issued Circular No. 179, stipulating that military personnel on duty in foreign countries or possessions must not marry without approval from the commanding officer of the United States Armed Forces stationed in that location. Non-compliance with this directive could result in a court-martial. Notably, prior to its issuance, the Judge Advocate General of the U.S. Army reviewed the proposed marriage restrictions and, in a written statement, acknowledged the Secretary of War's authority to prohibit marriages for military efficiency in foreign commands.
The War Department subsequently introduced Special Regulation 600-240-5, “Personnel Marriage in Oversea Commands,” which outlined the policy and procedures for obtaining approval for marriages between U.S. citizen military service personnel and noncitizens. Notably, the regulation did not target marriages based on race or interracial unions. Instead, it emphasized that the restrictions aimed to protect individuals from impulsive marriages and ensure a full understanding of the commitments involved. Additionally, the regulations were framed to fulfill the military's obligation to the parents of young soldiers by replicating the positive influences of home, family, and community, contributing to the overall discipline and morale within the service.

Because John sought permission to marry Emilie, he must have known about the restrictions on marriage. It is unclear, though, if he knew about Circular 70 which was issued on September 15, 1945, by General Douglas MacArthur, who was the Supreme Commander of the Allied Forces. Circ. 70 was applicable to all military personnel stationed outside the United States and provided that that no military personnel could marry in any area outside the United States without the approval of the United States commander. The power to grant approval of marriage applications could be delegated to lower-ranking officers.

Circular 70 was unique because emphasized certain factors that officers should consider when deciding whether to approve marriage applications, including immigration restrictions and state anti-miscegenation laws. With respect to immigration, Circular 70 articulated that U.S. immigration laws generally mandated the exclusion of “aliens ineligible for citizenship.” Employing language nearly identical to immigration laws, Circular 70 pointed out that existing naturalization laws limited citizenship eligibility to “white persons, persons of African nativity or descent, descendants of the race indigenous to the Western Hemisphere, and Chinese persons or persons of Chinese descent.” The circular also further specified that eligibility for citizenship
required a noncitizen to have a preponderance of white, African, or Chinese blood, and anyone with "as much as one-half of other than white, African, or Chinese blood" was deemed ineligible for citizenship. Therefore, Circular 70 made it clear that the application of the exclusionary provision of immigration law against individuals ineligible for citizenship should play a role in the approval or rejection of marriage requests. Importantly, Emilie, as a half-Japanese, half-German non-citizen who would be considered ineligible to citizenship, leading to John’s commanding officer to refuse to give John permission to marry Emilie.

Circular 70 also summarized other laws and regulations applicable to marriage applications of military personnel, mentioning “laws of a number of states that do not recognize as valid any marriage contracted between persons of certain different races.” Although not outright prohibiting interracial marriages, the inclusion of this section in Circular 70 indicated the relevance of state anti-miscegenation laws on an officer’s decision on whether to approve a marriage application. It is not clear whether John’s commanding officer rejected John’s marriage application because of this provision of Circular 70. But John is from Oregon, which criminalized until 1951 marriages between white individuals and anyone who was one-fourth (or more) Black, Chinese, Hawaiian, and one-half American Indian. It well may be that John’s commanding officer relied on John’s state residence as the basis for disapproving his marriage request.

In early May 1946, John was set to return to the United States on the U.S.S. Stetson Victory. The couple remained engaged but not married. With the help of friends, Emilie obtained passage on the ship. Likely believing that if Emilie became John’s wife before arriving in the United States that she would be allowed to enter the country, the couple asked the captain of the ship to marry them. Under maritime law, captains have the power to marry couples. Perhaps the captain was not
aware of Circular 6. Or he may have disagreed with Circular 6 and wanted to help the couple. Whatever the reason may be, he agreed to perform a wedding ceremony and on May 9, 1946, got married. Now that Emilie was officially a war bride, the couple may have believed that she would be admitted to the United States. After all, how can a veteran be denied the privilege of living in the United States with his wife?

They were mistaken. On May 12, 1946, Emilie and John arrived in the port of Seattle, Washington aboard a military ship. Upon arriving in Seattle, John and Emilie discovered that John’s status as a soldier and Emilie’s status as a war bride were not able to cure Emilie’s racial inadmissibility. When questioned by immigration officers about her race, Emilie responded, stating that she was, “one-half German and one-half Japanese.” Based on her statement, immigration officers determined Emilie to be a person of “mixed blood,” with fifty percent attributed to the white race and fifty percent to the Japanese race. As a half-Japanese, Emilie was deemed ineligible for naturalization and immigration officers declared her to be inadmissible to the United States. Consequently, they transported her to the local detention center, where she remained for a couple of months while John endeavored to secure her release from immigration officials. According to John's account, the couple received assurances from immigration authorities that the situation would be resolved, and Helene would be released. John, permitted a weekly visit lasting 15 minutes with the chaperone present, had hoped that Emilie would eventually be released. But upon learning that the Board of Immigration Appeals affirmed the immigration officer’s decision, John looked for a lawyer to help him avoid Emilie from being deported to Japan.
“I have a problem that to me is very important.” So began James Vaughn’s letter, dated May 7, 1949, to Nevada U.S. Senator Pat McCarran. He was a civilian employee at the Las Vegas Army Air Force Base in Las Vegas, Nevada, and he needed the Senator’s help. More than a year before he wrote to him in May 1949, James found out that Vivienne Wilson, whom he regarded as his wife, was pregnant. James, who was then working in Japan under contract as a civilian employee for the United States Department of War, wanted to marry Vivienne. But he had difficulty getting permission. Although James was a civilian, as an employee of the War Department, James was nevertheless required to comply with military regulations that mandated that he first obtain permission to get married. He therefore asked military officials as well as the U.S. Embassy in Tokyo to marry Vivienne. All refused, citing Vivienne’s racial inadmissibility to the United States. Undeterred, the two had a religious marriage ceremony on May 8, 1948, or as James explained in his letter, a “Japanese marriage.” The two subsequently began living together as husband and wife.

Life for the interracial couple was miserable. After they moved in together, “[t]hings went from bad to worse [and] there was the constant threat of the American Military Police intering [sic] our home and treating my wife as a prostitute and me as a criminal for this,” James explained. The military seemed invested in maintaining regulations and punishing those who resisted them. James “could[n’t] stand the idea of this any longer” and “thought it would be best to return to the states and try to get my wife here to make our self a home here in the states. James left Yokohama, Japan on August 7, 1948, aboard the military ship USAT Edmund B. Alexander and arrived in Seattle, Washington two weeks later with the hope that he could obtain permission for his wife to
come to the United States legally. James approached U.S. Representative Harry Sheppard from California to seek his assistance who advised James to try to get Vivienne a visitor’s visa to the United States. James hired a lawyer who assisted him in writing a letter to the State Department, Visa Division.

But, more than a year since he left Japan, Vivienne had yet to move to the United States. James was getting desperate. By then, James and Vivienne’s baby was born. As he wrote to Senator McCarran, “[s]ince I returned to the states, we have a little girl that was borned [sic] April 17 of this year.” The baby was named Mary Ann Vaughn. James very much wanted to meet his daughter and reunite with his wife. Hearing about a bill that would have enabled him to bring his family to the United States, James asked Senator McCarran about a “bill pending in Congress to set up a quota for Japanese to better our position in Japan.” With hopeful anticipation, James ended the letter by saying, “[if] you could give me any information on that bill and if you can offer any advice as to how I migh [sic] get my child [sic] and my wife to the state [I] would greatly appreciate this.” Meanwhile, while in Nevada, James supported Vivienne and their daughter by sending them $100 a month through a friend in Japan.

Fortunately for James, Senator McCarran offered to help. On May 25, 1949, Senator McCarran responded to James’s letter and informed him that, “I am interested in helping you in every way possible and will introduce a private immigration bill in the Senate to permit the entry into the United States of your wife and child.” Senator McCarran’s offer to sponsor a private bill was crucial. Between 1875 when Congress passed the Page Act that barred Chinese women who were regarded as prostitute from entering the United States and 1952 when Congress repealed racial restrictions to citizenship, most Asians including Japanese were not racially inadmissible to
the United States. A special legislation such as an amendment to the law or a private bill would have been the only way that Vivienne, a Japanese woman, could have been allowed to enter the U.S. borders in 1949.

On July 8, 1949, Senator McCarran introduced S. 2053, “For the Relief of Mrs. James A. Vaughn and daughter Mary Ann Vaughn.” The bill was later amended to recognize the couple’s lack of a civil marriage (since the couple had only a religious ceremony) and thus described Vivienne in the final bill as “Japanese fiancée of James A. Vaughn.” As a fiancée of James, Vivienne would be admitted as a “non-immigrant temporary visitor” for the purpose of getting married to James. Significantly, the bill stated that “the provisions of the immigration laws relating to the exclusion of aliens inadmissible because of race shall not thereafter apply to Vivienne Wilson.”

The bill also provided relief for Mary Ann, describing her as “the minor child of the said Vivienne Joy Wilson [and] be held and considered to be the natural-born alien child of James A. Vaughn, a citizen of the United States.” In the report accompanying the bill, the U.S. Department of Justice stated that James has “acknowledged the child as his own.” In fact, the report noted that James was supporting Vivienne and their daughter by sending them $100 a month. However, James believed that he “would be in a better position financially to care for them in the United States.” Additionally, bringing his wife and daughter to the United States meant that they will be surrounded by the Vaughn family members. Indeed, James’s parents—Mr. and Mrs. O. A. Vaughn—knew about Vivienne and Mary Ann. In a Western Union telegram that Mr. and Mrs. Vaughn sent to Senator McCarran, they expressed their gratitude for his sponsorship of “S. 2053” and that “they heartily approve of the marriage and want to see [their] son James A. Vaughn and Vivian Joy Wilson [sic] Vaughn and baby re-united.”
The bill’s description of Mary Ann as an “alien” reflected the complicated intersection of race, immigration, and citizenship law. On the one hand, Mary Ann was technically racially admissible to the United States. As the daughter of a half-Japanese, half-Swedish mother and white American father, Mary Ann is three-quarters white and one-quarter Japanese for purposes of citizenship and immigration regulations. Under immigration rules in effect at that time, Mary Ann was more “white” than “Japanese” and arguably able to immigrate because she was racially eligible to naturalize (assuming, of course, that she was an “alien” or immigrant). A private bill enabling her to be admitted to the country was therefore superfluous. On the other hand, immigration regulations regarding admission should not have been applicable to her in the first place. Under citizenship law, U.S. citizen parents may pass down citizenship to their children who are born abroad. As the daughter of a U.S. citizen, baby Mary Ann should have been recognized as a U.S. citizen at birth. And as a citizen, she would have had the right to enter the United States at any time. Congress passed S. 2053 on August 5, 1950. But Vivienne and Mary Ann never made it to the United States.

CHAPTER NINE, THE LOVE CHILD
MARY ANN VAUGHN

In an unexpected and heartbreaking turn of events, Vivienne died of tuberculosis on the same day that Congress passed the law that would have allowed her and Mary Ann, then sixteen months old, to enter the United States and be with James. After Vivienne’s death, Mary Ann was placed under the guardianship of Vivienne’s father, John Wilson. John hired Fumi Yamaguchi, Mary Ann’s nanny when Vivienne was alive, to assist him with the baby. (While Mary Ann was under the Wilson family’s care, it was not clear whether James was in touch with them.).
John Wilson comes from a family of Swedish citizens who were either born in Japan or had lived in Japan for years, treating Japan as their home. He himself was born in Japan; his father immigrated from Sweden. John therefore considered Japan as his home. But the death of his daughter and hardships from the war compelled him to decide to move to Sweden. In 1952, John, his wife, minor children, and nearly 3-years-old granddaughter, Mary Ann, were to set sail together to Sweden. But Mary Ann developed whooping cough and had to stay in Japan. Fumi promised to bring Mary Ann to Sweden after she got better. However, Fumi absconded with the baby, cut off ties with the Wilson family, and chose to raise Mary Ann as her own daughter. Fumi also destroyed Mary Ann’s birth certificate and other paperwork, which made it impossible for James to find his daughter and bring her to the United States.

Meanwhile, the Wilson family asked the Swedish government to assist them in finding Mary Ann. Eventually, the Swedish government found Mary Ann’s whereabouts and sued Fumi for custody. The custody battle took two years and culminated in the Tokyo High Court declaring in the 1955 case *Sweden v. Yamaguchi* that Mary Ann, is a Swedish citizen. Her name going forward, shall be “Marianne Wilson” and the Swedish government would have custody over her while she lived in Japan until graduating high school. Although the Swedish government allowed Marianne to live with the Yamaguchi couple for a while, she eventually lived with several Scandinavian and American families who were then residing in Japan.

Growing up in Japan, Marianne knew little about her parents. Fumi told Emilie that her mother died when she was a baby and that her American father abandoned her. She believed Fumi. But that changed on March 6, 1975. Marianne was with Fumi as the latter laid dying on her
deathbed. Fumi confessed to Marianne that her father did not abandon her and apologized to her for keeping Marianne away from him. She encouraged Marianne to seek him out.

Marianne searched for several years, before finally finding her father through the Japanese Red Cross in 2003. But James Vaughn had passed a year earlier. The search was not entirely futile, however. The organization gave Marianne with James’s date of death and the location of his family in Albuquerque, New Mexico, including her American brother, Steve Vaughn, and other members of the Vaughn family. Marianne visited her American family in 2004. They have stayed in contact and Marianne has become somewhat of a local celebrity in New Mexico. In fact, the New Mexico state senate in 2009 declared April 17th to be “Mary Ann Vaughn Day.”

After meeting her American family, Marianne desired something that seemed like a way for her to be connected to her father and her American family: be recognized as a U.S. citizen at birth. Just as her Swedish citizenship is a link to her mother, U.S. citizenship would be her tie to her father and her American family.

CHAPTER TEN, ILLEGITIMATE CITIZENSHIP RULES

A few years before Marianne and I became acquainted, she and her brother Steve endeavored to help her get recognized as a U.S. citizen at birth. Their experience highlighted the complicated bureaucratic process that a person who was born abroad, whose father is a U.S. citizen and mother is a foreign national and whose parents are not married, must do to prove that one acquired citizenship at birth. The process requires understanding the relevant citizenship laws and regulations as well as the appropriate federal agencies tasked with adjudicating citizenship claims. In other words, proving one’s citizenship claim is not easy. Indeed, it is quite complex.
Many Americans are generally aware that citizenship is gained automatically based on birth in the United States. (Whether they agree with this law is another story and the subject of a different book). Former President Trump has been known to criticize this law and regularly commented that automatic birthright citizenship, particularly for children of undocumented immigrants, should end. But birthright citizenship based upon birth on U.S. “soil” or *jus soli* as it is known under the common law has been the law of the land since 1868 with the passage of the Fourteenth Amendment, which includes the Citizenship Clause. Regardless of a parent’s citizenship or immigration status, anyone born within the United States (U.S. “soil”) acquires U.S. citizenship. The Immigration and Nationality Act (INA) codified this constitutional principle in 1952 when it provided that automatic citizenship is acquired based on birth in the United States or a U.S. territory.

There is another perhaps lesser-known way that citizenship is acquired at birth: a U.S. citizen parent may pass down citizenship to his or her child who is born abroad. Known under the common law as *jus sanguinis*, this citizenship by descent pre-dates the Fourteenth Amendment by several decades. In 1790, Congress passed the country’s first naturalization law. This law is primarily known for instantiating Congress goal of a white citizen population by stating that only “free white persons” may apply for citizenship. But the 1790 law also established *jus sanguinis* birthright citizenship by providing those children of U.S. citizens “born beyond [the] Sea, or out of the limits of the United States, shall be considered as natural born Citizens.” There is one qualifier, however. Birthright citizenship is recognized “provided that the right of citizenship shall not descend to persons whose fathers have never been resident[s] of the United States.”\(^1\) In other words, the father needed to have physically resided in the United States first before the child is

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\(^1\) 1790 Naturalization Act. This was silent on whether citizenship would be acquired by birth in the United States. At the time, all states had adopted the English common law and provided that birth within the state led to citizenship.
born abroad. Both the gender and physical residence in the United States stand out in stark contrast to the more general language of Fourteenth Amendment birthright citizenship that is available to anyone born in the United States or a U.S. territory.

Today, the INA continues to recognize this form of birthright citizenship. Two separate INA sections govern how one could acquire citizenship at birth if that person is born in a foreign country. The first section, INA 301(g), applies to a person born “outside the geographical limits of the United States” whose parents have mixed status, meaning that one parent is a U.S. citizen, and the other is a non-citizen. Under INA 301(g), the U.S. citizen parent needed to have been physically present in the United States for at least five years before the child was born. Additionally, two of the five-year physical residency requirements had to have taken place after the citizen was fourteen years old.2

A second section, INA 309(a), adds another set of requirements if the parents of the child were not married. Specifically, INA 309(a) applies to persons who are born out of wedlock by stating that the non-marital child gains citizenship only if several other requirements are met. One of the key provisions of this statute requires “the paternity of [the child to be] established at any time while such child is under the age of twenty-one years by legitimation.3 The word “legitimation” is not only archaic but also lacks a uniform definition, but it is defined in Black’s Law dictionary as the “act of making something lawful.” As applied in the citizenship context of a non-marital child, the act of “legitimation” means that the non-married parent must show a parental relationship to the child before the child turns 21 years old. Because it is generally

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understood that it easy for a mother to show her relationship to the child (as she is typically present at the child’s birth), INA 309(a) generally applies to unmarried fathers.

Marianne and Steve read the above laws and believed that they could present two reasons why Marianne was a U.S. citizen at birth. First, Marianne’s parents were “married,” albeit by religious ceremony. This meant that they only needed to show that their father satisfied the physical presence requirements. Second, even if Marianne’s parents were not married, they believed that their father “legitimated” her. They agreed that Marianne would reach out to the U.S. Embassy in Tokyo while Steve would contact federal agencies in the United States. In June 2004, sent a letter to then U.S. Attorney General John Ashcroft to inquire about the process that Marianne would need to follow to be considered a U.S. citizen. The Attorney General is the head of the U.S. Department of Justice (DOJ), which is the primary agency tasked with enforcing federal laws, which may explain why Steve decided to contact that agency. Importantly, DOJ is not the agency that addresses citizenship claims. Instead, two other agencies have oversight over citizenship claims—the Department of Homeland Security (DHS) and the Department of State (DOS). Within DHS is U.S. Citizenship and Immigration Services (USCIS), the federal agency that processes immigration visa and naturalization (citizenship by application) applications. DOS, by contrast, primarily deals with foreign affairs, and has U.S. embassies and diplomatic and consular officers posted in foreign countries to facilitate foreign relations. U.S. embassies also provide services to U.S. citizens residing abroad, including issuing citizenship certificates for children of U.S. citizens born in foreign countries. On August 30, a clerk with USCIS responded to Steve, informing him that “[a]ny person who claims citizenship by having been born outside the United States of United States citizen parent(s) should complete Form N-400, Application for Certificate of Citizenship.”
(This was actually a typo, as Steve later realized. The correct form is N-600, which he found online).

Meanwhile, back in Japan, Marianne had better luck. On July 6, 2004, Marianne called the U.S. Embassy in Tokyo and spoke with Peter Van Buren, one of the consular officers. Peter subsequently summarized their conversation, in his words, “in writing” by sending his summary via fax to both Marianne and Steve “in the interests of clear communication as promised.” This initial letter, as well as other written correspondence, revealed Peter’s understanding of the grounds for Marianne's citizenship claim and foreshadowed the challenges she would face in the next few years in establishing that she was a U.S. citizen at birth.

At the outset, Peter first explained he would be the primary adjudicator of her citizenship case. Although it might not have been clear to Marianne and Steve, Peter, as the primary adjudicator, has absolute discretion to decide whether Marianne was indeed a U.S. citizen at birth. Consular officers are essentially “gatekeepers” of U.S. borders abroad. They have broad, if not absolute discretion, in making decisions about various immigration and citizenship-related matters including whether to issue a visa to someone wanting to enter the United States. Or, in Marianne’s case, he had the discretion to decide whether she was indeed a U.S. citizen. In his letter to Marianne and Steve, Peter stated that “[t]he process is for you [Marianne] to provide evidence of your citizenship.” He emphasized that the evidence “must be as clear a fashion as possible.” Peter’s explanation of Marianne’s need to provide evidence is consistent with the crucial role that an evidentiary record plays in supporting various applications that individuals submit to U.S. Embassies, including when one is claiming U.S. citizenship (or, on that note, seeking admission to the United States). Marianne had to show that her father, “James Vaughn resided in the United
States for ten years prior to her birth and that five of those years had to be after the age of 16; that James legitimated her under state law; proof that he worked for the U.S. government; documents that prove that Mary Ann Vaughn is Marianne Wilson Kuroda; and proof of paternity.” Importantly, Peter expressed that Marianne’s citizenship claim would be governed by the citizenship rules applying to children born out of wedlock. In his letter, he explained that the law in place at the time of Marianne’s birth “pertain specifically to a case where a child is born to a U.S. citizen father and an alien mother out of wedlock.”

Marianne and Steve decided to push for the argument that Marianne’s parents did get married. They insisted that after James and Vivienne got married through a religious ceremony, they thereafter regarded each other as husband and wife. Indeed, Steve pointed out that James often referred to Vivienne as his wife. Unmoved, Peter explained that “religious ceremonies, however meaningful, are not considered valid marriages in Japan.” Further, Peter explained that “a legal marriage in Japan occurs only when the union is registered at the city or ward office. No other action, including religious ceremonies, constitutes a marriage in Japan.” He further stated,

This registration produces a record in Japan called the “Certificate of Acceptance of Notification of Marriage.” . . . This is the only proof of a legal marriage that two foreigners would have if married in Japan. If the elder Vaughn does not have this document then he was never married in Japan, regardless of his personal belief or the significance of any religious ceremony to him.

Peter clarified that registration to marry at city hall is separate from registering one’s marriage “on a Japanese citizen’s family register.”

Marianne and Steve pointed out that James did try to obtain a valid marriage by seeking permission for the couple to marry. Peter rebuffed that claim, explaining that the U.S. Embassy
“does not ‘approve’ a marriage.’” However, he did acknowledge that the “elder Vaughn may have been subject to other rules in place at the time regarding US military or government occupation personnel that could have prevented him from legally marrying.” Nevertheless, Peter said he did not “see anything in Japanese law that prohibited the elder Vaughn from getting married legally in Japan.” As if to prove his point, Peter noted that he was aware of “marriages” that did take place after the war, and thus, “marriage was in some ways possible.” He particularly quipped, “How many GIs brought home ‘war brides’?” to re-affirm his argument that marriages had taken place between Americans and Japanese women.

Evidently, Peter did not seem aware of the history of the military’s restrictions on marriages to persons not eligible to citizenship. But even if he was aware of that history, Peter likely would not have changed his mind regarding his conclusion that Vivienne and James were not married. After all, they were not.

Thus, the main issue with Marianne’s citizenship claim, from Peter’s perspective, was that because she was born out of wedlock, Marianne needed to show that her father “legitimated” her when she was a baby. Focusing on the process of legitimation, Peter explained,

Legitimation is a specific legal act that cannot be satisfied except under the provisions of the appropriate state law. If James was a legal resident of Nevada, then he must have either taken [Marianne] into his own as his own child there or, filed the appropriate papers with the state office of vital records, or had his paternity by a competent court before [December 24, 1952]

Challenging the legitimation requirement, Marianne and Steve informed Peter that James did acknowledge Marianne as his own child, particularly when he told Senator McCarran that baby
Mary Ann Vaughn was his daughter. Although the private bill was not done through a court, it was a law that, after all, passed the entire Congress, and this law recognized Mary Ann as the daughter of a U.S. citizen. Peter was unconvinced, writing,

the [private] law does not offer an alternative to the ‘competent court’ to my knowledge in the form of a private bill. I note that in the private bill, Mary Ann is referred to as the “alien child” of James, not the U.S. citizen child. As you can see, it is possible under the law in place in 1949 that Mary Ann could be the “natural born child” of James without being an American citizen.

Part of what seems to be Peter’s concern with the bill is that proving one’s parent-child relationship must be “typically established outside of what can be considered self-serving statements.” Although Peter acknowledged that “the private bill states that Mary Ann is the alien child of James,” he commented that “it is unclear what actual evidence this is based on besides James’ single letter to his Senator.” In sum, Peter concluded that because there was no marriage between Marianne’s parents, legitimation needed to be established. Indeed, he wrote that compared to other factors, including paternity, “legitimation [is] a bigger problem to resolve.”

**CHAPTER ELEVEN, PROVING CITIZENSHIP**

When I published my law review article about Emilie Bouiss in 2011, I did not know what happened to her daughter Vivienne Wilson, her granddaughter, Mary Ann/Marianne Wilson (Vaughn) and James Vaughn. Their story, however, piqued my interest. Indeed, I wanted to include more of their story in the article, but the article, at almost 80 pages, was already quite lengthy. I chose to briefly describe their story in a footnote—footnote 384—and made a promise to myself that I would return to their stories someday. But I was not sure when I would be able to do so.
That time came about a year later. One summer day in June 2012, I arrived in my office and noticed that someone had left a recorded voice message. I thought it was strange that someone left a message since even in 2012, most people I knew preferred to send an email. I assumed that the message came from someone I did not know. I guessed correctly. The call came from a man named Steve Vaughn. From what I recall, he said something along the following lines: “My name is Steve Vaughn, and I am calling on behalf of my sister, Marianne Wilson Kuroda. You wrote about her grandmother, Helene Emilie Bouiss.” I was both surprised and intrigued by the message. I was amazed to learn that there were people outside of the legal academy who read my work. (Many law professors often joke that no one outside of our families, if that at all, reads our articles.). I was also astounded that someone had a connection to the 1947 case I wrote about.

I returned Steve’s call, and he subsequently connected me with Marianne. When I asked Marianne to tell me how she found my article, she explained that the last few years, she has been trying to find more information about herself. She was “Googling” her name one day and it led her to a blog post, written by Professor Christina Ponsa-Kraus, who had reviewed my article for an online publication, Journal of Things We Like (Lots) or Jotwell.

Marianne and I regularly emailed or communicated by Skype. Through our communications, I began to have a deeper appreciation of the impact the federal barriers that barred her parents from marrying had on her life. It was not only mixed-race couples themselves with marriage applications denied who were negatively affected by the federal laws. Marianne’s story illuminated that the children of these couples also suffered because of their parents’ inability to be married and be together. Marianne was one of hundreds if not thousands of mixed-race children born in Japan during the American Occupation. Many were given up for adoption or abandoned in orphanages and grew up not knowing their biological fathers.
At some point in 2012 during our communications, Marianne asked me whether I could help her get recognized as a U.S. citizen. I was recently tenured and had been teaching Immigration Law and Citizenship Law since 2006 and so I of course knew that citizenship laws allow children born abroad with one or both parents as U.S. citizens to be acknowledged as U.S. citizens at birth. But teaching citizenship law and practicing citizenship law were two different things. And when I did practice law before I became a full-time professor, I primarily represented immigrants in civil rights cases. Additionally, when Marianne requested my help, I had already retired from the practice of law. That was not necessarily a significant barrier because I was still allowed to take on pro bono cases. But truth be told, I had never taken on a case such as hers.

However, her case called me. I have devoted my years as a professor researching how race intersected with immigration and citizenship laws and how these laws played dual roles of inclusion and exclusion. Given what I knew about how immigration, citizenship, and military laws affected Marianne’s family, including not only her parents, Vivienne, and James, but also her grandmother, Emilie, I came to believe that the United States owed it Marianne to acknowledge her as an American at birth. I could not help but wonder what her life would have been like had she and her mother been able to enter the United States in 1950 after the private bill passed. I convinced the immigration law clinic at my law school at the time, the University of California Davis School of Law, to help me represent Marianne on a pro bono basis.

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