The Attitude of the Department of State to the Japanese Exclusion Clause in the Immigration Act of 1924

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THE ATTITUDE OF THE DEPARTMENT OF STATE
TO THE JAPANESE EXCLUSION CLAUSE IN
THE IMMIGRATION ACT OF 1924

by

Carl Edward Meirose, S.J.

A Thesis Submitted to the Faculty of the Graduate School of Loyola University in Partial Fulfillment of the Requirements for the Degree of
Master of Arts

February
1962
LIFE

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CHAPTER I
INTRODUCTION

As Henry Ford prepared to put the country on wheels for only $295, New Yorkers turned out in record numbers to welcome Patrick Cardinal Hayes home from Rome. In Moscow Leon Trotsky harangued a cheering May Day audience in Red Square. But in Washington the President, the Senate, and the Secretary of State were caught up in a drama over a pending immigration law that would profoundly affect the number and type of immigrants entitled to enter the United States.

Certain aspects of this drama will be treated in the pages that follow. We will concentrate on two points: the exclusion clause directed against the Japanese people and the official position of the Department of State with reference to this clause. The first point not only involves a discussion of Japanese immigration prior to 1924, but also a scrutiny of the nature, purpose, and effects of the Immigration Act of 1924, especially of the exclusion clause. The second aspect entails a study of the published papers of the State Department, in which the author will point out the Department's opposition to the law and the difficulties consequent upon passage in the area of foreign relations. In such a procedure it is hoped that the capabilities and effectiveness of the Secretary of State, Charles Evans Hughes, will be clearly indicated.

1 New York Times, May 1, 1924, pt. 1, pp. 1 and 9; pt. 9, p. 10.
CHAPTER II

AMERICAN-JAPANESE IMMIGRATION PRIOR TO 1924

Isolation was a word whose meaning the Japanese people had come to understand through personal experience. For governmental restrictions during the seventeenth, eighteenth, and up to the end of the nineteenth century did not permit them to leave their country to establish permanent residences elsewhere. For the Japanese, emigration from their native land was simply banned. ¹ But on July 8, 1853, the American fleet, commanded by Commodore Matthew C. Perry, steamed into Tokyo Bay to mark the beginning-of-the-end of the Imperial Government’s emigration policy. ² In March of the following year, Commodore Perry negotiated a treaty of peace and friendship that opened the ports of Shimoda and Hakodate for supplies and make provision for United States seamen shipwrecked off Japan. ³

By this treaty, signed at Kanagawa, Perry put the wedge into the door


²For a detailed study of Perry’s mission see Payson J. Treat, Diplomatic Relations between the United States and Japan (1853-1895) (Stanford U., California, 1932), especially Vol. 1, chap. 1, with the references and bibliography, pp. 1-25. Also Ichihashi, p. 2.

³Ibid., p. 12. The text of the treaty is printed in William M. Malloy, Treaties, Conventions, International Acts, Protocols and Agreements between the United States of America and Other Powers (Washington, 1910-1923), 1, 996-998. Treat and Ichihashi give Shimoda and Hakodate while Malloy gives Simoda and Hakodade.
which opened ever so gradually to further demands from the United States. At the time neither country realized the new problems they would have to face as a result of this treaty of friendship.

On August 5, 1855 Townsend Harris was appointed consul general to Japan. In agreements signed by him in 1857 and 1858, Japan consented to open Nagasaki and other ports to United States commerce, to grant Americans residence rights, and to establish diplomatic representatives at the respective capitals of the United States and Japan. Final authorization for Japanese subjects to live in foreign countries took place in 1885. But, under the terms of the law enacted in that year, each Japanese citizen who wished to leave his island home had to register in his native prefecture and obtain permission to leave from the local authorities, who, in turn, provided him with a passport which stipulated that he must return to Japan within three years.

In the following year the Imperial Government passed the Emigrants' Protection Law, whereby each emigrant had to designate a person in Japan who

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1W. E. Griffis, Townsend Harris, First American Envoy to Japan (Boston, 1895); but the definitive text is Mario Emilio Cosenza, The Complete Journal of Townsend Harris (Garden City, N. Y., 1930). For a eulogistic account of Harris's work, see Roland S. Morris, "The Background of the Relations between Japan and the United States," The Annals of the American Academy of Political and Social Science, XCIII (January 1921), pp. 1-7.

2Treat, I, 26-63; Malloy, I, 998-1006; Ichihashi, pp. 4-5.

would be responsible for him in the event that he should become ill abroad or should change his mind and desire to return to his native land. Despite its strictness this law actually increased emigration from Japan to the United States in particular. As a result of these seemingly impossible demands on the impoverished Japanese laborer, large emigration companies formed to provide the emigrant with the necessary surety, transportation, and a job upon arrival at his destination. "Little of the immigration to this country, except of the student class, has been independent of the emigration company; usually the first employment in this country has been under the Japanese contractor." Thus a Japanese laborer found it relatively easy to arrive at Hawaii or the mainland of the United States by 1900.

A fact to be noted in view of later economic arguments for exclusion is that labor contractors, notably on the West Coast, worked closely with these companies to provide themselves with cheap Oriental labor, especially since the cheap Chinese coolies had been excluded from the United States in 1882 and 1892. Viewed in this light the census reports become more intelligible. In 1890 the total number of Japanese in the United States was 2,039; but by 1900

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7 _Ibid._, p. 607.

8 U. S. Department of Commerce and Labor, Bureau of Immigration and Naturalization, _Reports of the Immigration Commission_ (Washington, 1911), XXIII, 12. Hereafter, this work will be cited as: _Immigration Commission, Reports._

9 _Ibid._

10 _Ibid._, p. 13.
their number had increased to 24,326, of whom 10,151 were living in California, 11
5,617 in Washington and 2,501 in Oregon.

From these figures one can judge that, if the Japanese laborer was a
threat to anyone, it was to the California workingman. In that state alone the
Japanese were accused of maintaining sweat shops; of driving white female
domestics out of employment; of forcing two hundred shoe-repairing men out of
San Francisco; of invading the fruit districts of Vacaville, Fresno and Visalia;
of controlling all unskilled labor on the railroads and in the beet fields; of
cutting into the white laundry business; and of underbidding white building
contractors from twenty to sixty per cent.12

In 1900 these accusations culminated in a mass meeting sponsored by the
San Francisco Labor Council which proposed to extend the exclusion laws then in
effect against the Chinese to the Japanese also. In the same year the
California Labor Commissioner noted the sudden influx of Japanese laborers,
while Governor Henry T. Gage referred to the "Japanese problem" in his message
to the California legislature on January 8, 1901.13

On the other side of the Pacific Japan listened to the ominous rumblings

11U. S. Department of Commerce, Bureau of the Census, Fifteenth Census of
the United States: 1930, Population, II, tables 4 and 11 (Washington, 1933)
pp. 32-35; Fourteenth Census of the United States: 1920, Population, II, table


13Ibid., pp. 608-609.
in California. She realized that the unchecked entrance of her nationals into California could produce only harmful results in terms of foreign relations and future United States immigration policy. So, threatened with exclusion laws in 1900, she amended the Emigrants' Protection Law of 1886. She would no longer issue passports to Japanese laborers who desired to go to the mainland of the United States. 14

The three key facts of this amended law are: 1) Japan herself limited the number of passports; 2) the limitation applied only to laborers, not to diplomatic personnel, students, or ministers of religion; and 3) this limitation of passports for laborers applied only to those headed for the mainland of the United States, not for our insular possessions. When the number of Japanese admitted into the United States in 1901 dropped to 5,249 from 12,628 for the previous year, the agreement appeared to be a success. 15 This revision has even been referred to as the first gentlemen's agreement because it resembled the official Gentlemen's Agreement in spirit and idea. 16

But the popularity of the measure in the United States steadily declined from 1901 to 1905 in the face of Japanese attempts to by-pass the law. In addition labor groups continued to agitate through the press, while the corrupt

14 Ibid., p. 609.


civic administration in San Francisco used the Japanese problem as a political football and to direct attention from itself. It should be noted that San Francisco, as the principal port of entry for immigrants, was the center from which most anti-Japanese agitation spread to the rest of the state, the West Coast, and to the nation in general.

The Japanese, anxious to get to America where food and employment awaited them, found a convenient loophole in their country's revision of the Emigrants' Protection Law. According to the new law the Japanese government's restriction on passports was limited to those laborers headed for the mainland of the United States. Nothing, however, was said about our insular possessions, the Hawaiian Islands. The inevitable result was that the simple laborer readily and legally obtained a passport to Hawaii, which turned out to be nothing more than a jumping-off station for continental United States. For transit between the mainland and Hawaii was in no way restricted. "Once the Japanese laborers were in the Hawaiian Islands, which are an integral part of the United States, nothing could legally prevent them from moving on to California, any more than the national government could keep aliens in Oregon from crossing the state line into Washington." As a matter of fact, emigration from Hawaii to

17Ibid., pp. 620-638.

18For wages in Japan and the motives for emigration to the United States, see Immigration Commission, Reports, XXII, 10-12; Ichihashi, pp. 83-92.

19Ibid., p. 6.

the mainland for the period from January 1, 1902 to September 30, 1902 increased from 1,054 persons (not all Japanese) to 13,803 persons (again not all Japanese) for the period from July 1, 1904 to December 31, 1905.21

But Hawaii was not the only devious route to continental United States. The emigration companies found the local Japanese officials who administered the law amenable to selling U. S. passports to Japanese coolies through the companies. This action was, of course, directly contrary to the law. In this connection it is interesting to note that certain American labor contractors at least tacitly approved the process as long as cheap immigrant laborers came to meet their needs in the factories and on the farms.22

But the organized labor groups, such as the A.F. of L. in its 1904 convention, vociferously demanded exclusion laws similar to those which regulated the Chinese.23 Labor's demands were concretized in May, 1903 with the birth of the Japanese and Korean Exclusion League, one of whose purposes was to launch a propaganda campaign to show the President and Congress what a menace the Japanese were.24 Such action required the ready and able press, by no means silent at this time. The San Francisco Chronicle, in particular, made the

21Immigration Commission, Reports, XXIII, 6.
23Immigration Commission, Reports, XXIII, 168.
24Ibid., pp. 169-170. The League's official title was later changed to the Asiatic Exclusion League.
cause of California's fight for exclusion the cause of the nation. To emphasize the "Yellow Peril" the West Coast newspapers highlighted Japan's military strength in terms of her recent victories in the Russo-Japanese War to convince American readers of future Japanese aggression against this country, if the present influx of Japanese immigrants were permitted to continue.

In addition to the bitter feeling stirred up by the newspapers the Mayor of San Francisco, Eugene E. Schmitz, capitalized on anti-Japanese feeling by posing not only as a labor party member, anxious to protect the workers of his city, but more important, by attempting to divert public attention from the crime and corruption rampant in the city administration.

The bitter feeling reached its high water mark in the famous San Francisco school segregation incident. Since many studies of the affair have been made, the details, already-well-known, can be passed over here. What is important for the present study is the fact that it was this incident that rocketed the Japanese question out of its purely local position in California into one of national concern. No longer could the President and Congress ignore the

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25 In February it published a nine-column inflammatory article on the dangers of Japanese immigration. See Ichihashi, pp. 233-234.

26 Bailey, pp. 5-9.


rumblings in California; for by the attempted segregation of Japanese students, the pride and sensibilities of a foreign power, and a major one at that, had been wounded by a group of citizens in one city.

Roosevelt enunciated the principle that "As soon as legislative or other action in any state affects a foreign nation, then the affair becomes one for the Nation, and the State should deal with the foreign power purely through the Nation."29 He realized that the affront to Japan could only be softened through skillful diplomacy. But how would he settle the immigration question in California to the satisfaction of its inhabitants, while upholding the sovereignty of the United States and without causing further injury to Japan? Ultimately, it was Roosevelt's promise to use diplomacy to settle the immigration problem that induced the San Francisco School Board to revoke its segregation order. The final outcome of the situation in the history of immigration in the United States has come to be known as the Gentlemen's Agreement.

To the historian writing some fifty years after its adoption, the Gentlemen's Agreement presents no great mystery. After he has sifted away the chaff of bitter feeling which lasted until the agreement was abrogated by the Immigration Act of 1924, he finds the kernel of an agreement rather stark in

29Theodore Roosevelt, An Autobiography, 2nd ed. (New York, 1925), p. 379. This volume cannot be used as the final word on any public issue. Roosevelt presents his own side of controversial issues warmly and enthusiastically; but he gives little of the opposition's viewpoint. His account, therefore, must be contrasted and compared with others to discover the middle ground where truth generally resides.
its simplicity. In fact he may even wonder why the agreement as such evoked such a storm of protest.

A partial answer lies in the very type of thing the Gentlemen's Agreement was. It was not a treaty nor an act of legislation, but a secret agreement arranged by President Roosevelt with the Japanese government. Such are the national government's powers that the executive can deal with foreign powers by methods other than strict treaties which, of course, must be ratified by the Senate for their binding power. Besides his diplomatic powers as Commander-in-Chief of the armed services, the president has others which permit him to work out binding agreements with foreign countries through the diplomatic process of exchanging notes. This was precisely the course that Roosevelt adopted with regard to the Gentlemen's Agreement.

In December, 1907 and January, 1908 the interchange was noted by the press; but the State Department remained silent on the contents of the notes except to declare on January 25, 1908 that the position of Japan toward immigration was "satisfactory." It was not until July, 1908 that the first official announcement about the nature of the Gentlemen's Agreement was made in the annual report of the U. S. Commissioner-General of Immigration. This

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element of secrecy combined with the nature of the Gentlemen's Agreement to make it unpopular, especially in labor and congressional circles where it was felt to be an infringement on the rights of Congress. The San Francisco branch of the Asiatic Exclusion League, for example, maintained that "the agreement was neither a logical nor an effective method of regulation." 33

By the terms, if that word can rightly be used, of the Agreement the Japanese government agreed, first, not to issue passports to Japanese laborers who intended to migrate to the United States to establish a permanent residence and secondly, to recognize the right of America to refuse admission to Japanese immigrants who used a passport originally issued for travel to any country other than the United States. 34

The basic distinction in the Agreement was between laborers and non-laborers. The latter, such as students, ministers of religion, and diplomatic personnel and their wives and children, could come and go as they saw fit according to the provisions of the treaty of 1894. But only three types of workers would henceforth be admitted to the United States. The first type was former residents who returned to resume a previously acquired domicile. Secondly, parents, wives, or children of residents of the United States also entered with no difficulty. The last group consisted of settled agriculturalists, i.e., those who would assume active control of an already possessed

33 Immigration Commission, Reports, XXIII, 170.

34 Ibid., p. 16. An amended immigration law, approved on February 20, 1907, gave the President power to issue an order refusing admission to Japanese or Korean laborers, skilled or unskilled, who sought entrance to the United States with passports marked for Mexico, Canada, or Hawaii. Roosevelt issued this order on March 14, 1907.
interest in a farming enterprise in this country. Japan applied these same provisions to any of her subjects who desired a passport to the Hawaiian Islands. Thus the loophole in the 1900 agreement was now blocked.

The Japanese government, therefore, exercised effective control over the number and type of subjects coming to the United States. It was this aspect of the Gentlemen's Agreement which caused such widespread criticism from the time of its adoption up to the Immigration Act of 1924. Opponents argued that the United States was surrendering a basic right which every sovereign nation possessed—the right to accept or reject aliens who come to its shores. The Asiatic Exclusion League expressed this sentiment in February, 1908 in a memorial addressed to Congress.

The first annual convention of the Asiatic Exclusion League of North America does hereby most respectfully protest against the administrative and executive officers of the United States entering into any agreement which will permit the ruler of any foreign country to make stipulations as to what class of persons and in what numbers shall leave said foreign country for the purpose of immigrating to the United States, and your memorialists further declare that the incoming of immigrants into the United States is a matter for domestic legislation and regulation, and is a prerogative of Congress and of Congress alone.

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36Immigration Commission, Reports, XXIII, 16; and Bailey, p. 166.

37Paul, pp. 8-9.

38Immigration Commission, Reports, XXIII, 170.
Nor were other labor groups silent on the issue. In reply to Japan's Foreign Minister, Mr. Matsui, the California branches of the American Legion, A. F. of L., Grange, and Native Sons of the Golden West issued a lengthy statement which included the following remarks: "Immigration is a purely domestic problem, which it is the privilege and duty of a government to determine un-influenced by urge or protest from other nations. . . . We should regulate our immigration. . . in accordance with our own interests, by our own laws, enforced through our own departments by our own officials." In the opinion of these groups "The Gentlemen's Agreement, therefore, has not only been a failure and a detriment to this country in actual result but it is also vicious in principal, sic conceding to a foreign nation the right to regulate our immigration from that nation."

Such as indictment, if true, raises the question of why Roosevelt ever negotiated the Gentlemen's Agreement. This question has several aspects, one of which should be evident from the foregoing pages on the increased immigration of the Japanese to the West Coast of the United States. Some suitable arrangement on immigration was necessary to quiet the unrest in California and in Japan, which resulted from the San Francisco School incident. Hence, there existed a real need which Roosevelt thought would be met by the Gentlemen's Agreement.


40 Ibid.
However, a more important and intriguing aspect of the original question centers on the nature or type of agreement Roosevelt arranged, with the correlative aspect of why he, Theodore Roosevelt, in view of his foreign policy in other areas, should cooperate with a foreign country in a diplomatic agreement which seemingly took away a sovereign right of the United States. These two aspects of the question are intimately bound together, because they revolve around the question of motivation which only Roosevelt himself could have answered.

In his Autobiography he wrote, "... I secured an arrangement with Japan under which the Japanese themselves prevented any emigration to our country of their laboring people, it being distinctly understood that if there was such emigration the United States would at once pass an exclusion law. It was of course infinitely better that the Japanese should stop their own people from coming rather than that we should have to stop them; but it was necessary for us to hold this power in reserve."41

Roosevelt felt that an arrangement of this type offered the only possible solution to the problem. For, though he lacked sympathy for the prejudice of the Californians, when he found himself confronted with the fact that race prejudice cannot be argued or reasoned out of people, he based the policy of the government on this fact.42 But he did wish to see that California obtained

\[41\] Roosevelt, Autobiography, p. 380.

\[42\] Bailey, p. 327.
any reasonable demands that it had.

When he summoned the San Francisco school board to a conference in Washington, the President made it quite clear from the beginning that he wanted to assist California in the light of the Japanese influx. He realized that underneath all the extreme criticism of the Japanese lay an anti-Japanese attitude which he termed "fundamentally a sound and proper attitude, an attitude which must be insisted upon." For, though he had high respect for the Japanese, he, nevertheless, insisted that mass settlements of Japanese in America or of Americans in Japan could produce nothing but disastrous results. Why? Were the Japanese inferior, too sensitive, warlike? Roosevelt preferred to call them different. "The two peoples," he said, represent two civilizations which although in many respects equally high, are so totally distinct in their past history that it is idle to expect in one or two generations to overcome the difference.

In several letters he showed an understanding for California's grievances which he considered just in many cases. The Japanese were definitely offering competition to American laborers, perhaps not to the degree that the press

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43 Ibid., pp. 123-149.
45 Roosevelt, Letters, V, 656-657.
46 Roosevelt, Autobiography, p. 381.
47 Immigration Commission, Reports, XXIII, 181-247.
indicated; but continued, unrestricted immigration gave cause for alarm. In 1907 he wrote to Harrison Gray Otis, "In strict confidence, I am now endeavoring to secure what I am sure we must in the end have; that is, preferably by mutual agreement, the exclusion of Japanese laborers from the United States just as we should not object to the Japanese excluding our laborers from Japan. I entirely agree with you as to the great undesirability of the large influx of Japanese to the United States.

Later, in March, 1907 Roosevelt, in writing to the Governor of California, James Norris Gillett, said, "The Administration is as earnestly and eagerly desirous of standing for California's needs as for the needs of every other section of the country. Not only are the interests and honor of the men of the Pacific Slope dear to me, but I am most anxious to meet, just as far as I can consistently with my duty to the rest of the country, every one of their desires."

But Roosevelt was also mindful of his position with reference to Japan. Hence, he would see that California's demands would be fulfilled in a manner least harmful to Japanese pride and sensibilities. The United States policy

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48 Roosevelt, Letters, V, 528.

49 Ibid., p. 541: "Harrison Gray Otis, Civil and Spanish War veteran; treasury agent in charge of the seal islands off Alaska, 1879-1881 for many years influential, aggressive owner of the Los Angeles Times-Mirror; since 1868 and until his death in 1917 an uncompromising Grant-era Republican."

50 Ibid.

51 Ibid., p. 613.

52 Ibid., pp. 610-612.
would be marked "with absolute good faith, courtesy and justice" to Japan as long as he directed affairs. The settlement would be in truth a gentlemen's agreement. In this way war, which was an ever present danger in his eyes, would be averted. He was acutely aware that Japan had grown up in the early years of the twentieth century. No longer was she a backward nation; for she now took her place among the great powers of the world. He saw the Japanese "... flushed with the glory of their recent triumph, and ... bent upon establishing themselves as the leading power in the Pacific." The United States could no longer regard Japan as a "Far Eastern protege," but as an equal in the community of nations with the result that the immigration question would have to be settled in the area of diplomacy, not by discriminatory legislation. Thus Roosevelt tried to blend the economic, social, and nationalistic aspects of the problem with considerations of foreign policy, all of which a later writer has called "the key to an understanding of American immigration policy."

During the second decade of the twentieth century the Japanese question in the United States waxed and waned as West Coast residents made their

53Ibid., p. 474.
54Ibid.
55Ibid.
56Bailey, p. 331.
58Ibid., p. 25.
protests heard throughout the country, sometimes more vigorously than at others. The principal elements involved were the agitation in California and on the West Coast generally, the activity of the exclusion leagues, California's laws, and certain decisions of the Supreme Court of the United States which denied the right of citizenship and the right to own property to the Japanese.

But even Japan herself helped to fan the fire of prejudice and fear on this side of the Pacific by her rising position in international affairs. She had definitely become a first-rate power after her defeat of Russia in the Russo-Japanese War. And during the Roosevelt era America herself had matured, so that many political strategists felt conflict between the two powers was inevitable, particularly in the Pacific area. Jingoism on both sides of the ocean capitalized on every opportunity which could lead to a final rupture of relations between the two countries. One such opportunity, of course, was the position of the Japanese people in California.

Though most of the country seemed satisfied with the working of the Gentlemen's Agreement, certain elements in California certainly were not.59 "... but the labor unions, the Asiatic Exclusion League, local politicians, congressmen, and certain 'patriotic' associations were determined upon the exclusion of the Oriental to avoid the dangers of a yellow peril and upon complete control of the immigration situation by law."60 As early as 1908 the


60 Ibid.
state legislature appropriated $10,000 to be used on a thorough survey of the number, type, and value of the Japanese in California to be conducted by J. D. Mackenzie, Labor Commissioner of the state. From the wave of criticism that followed his report in 1910, it is not erroneous to conclude that the legislators had preconceived conclusions about the survey's results. Hence, when Mackenzie reported in favor of the Japanese and their value to the state, his report was repudiated as worthless.

Meanwhile, however, in its 1909 session the legislature of California had introduced no less than seventeen anti-Japanese bills, which prompted President Roosevelt to intervene once more in local politics. Angered that the legislators had not heeded the lesson of the school incident in San Francisco, Roosevelt wired the governor to stop the two main bills which concerned alien ownership of land and school segregation. Pressured by the governor, Roosevelt, and the Speaker of the Assembly who came armed with personal messages from the President, the legislature dropped the bills.

But California's fight for nation-wide recognition of her problem continued until it reached the culminating point in the Alien Land Law in 1913.

In 1912 the U. S. Commissioner of Immigration apprehensively reported an

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61Ibid., pp. 46; 51-53.
62Immigration Commission, Reports, XXIII, 171.
63Roosevelt, Letters, VI, 1501-1506; 1508-1511h.
increase in the number of Japanese admitted into the country. The so-called "picture bride" affair seemed to be at the root of the problem.

According to the Gentlemen's Agreement parents, wives, and children could be admitted to the United States if husbands were residing here already. It seems that according to a Japanese custom a single Japanese male could pick his bride though he never saw her and though she lived on the other side of the globe. He would simply write to his parents to select a wife for him after which photographs of the bride and groom were exchanged. If the results were satisfactory to the contracting parties, the marriage took place in Japan in the absence of the bridegroom. Once married the young bride then sailed to the United States to her waiting husband. It is easy to see that such a practice would increase the number of Japanese emigrating to the United States. All, of course, was according to the letter of the Gentlemen's Agreement; but there was another side which fell short of the mark.

Prior to May 5, 1917, if female applicants were otherwise admissible under the general terms of the immigration law then in force, and presented papers issued under the agreement, admission followed only after the performance of a marriage ceremony in accordance with the laws of this country. This, in effect, allowed a picture bride while in an immigration station at a United States port to qualify as the wife of a resident of the United States in order to become admissible under our immigration law—something not contemplated by either its spirit or letter. In other words, a woman, no matter whence she might come, arriving at one of our ports without possessing the qualifications required by our law for entry might qualify

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66 Tupper and McReynolds, p. 56.
by being permitted to assume a status after arrival which she should have had before arrival. This practice was not satisfactory to the Department. 67

It is not difficult to imagine how the Californians looked upon this matter.

Now that Roosevelt was no longer in the White House the California legislature was determined to pass the alien land bills which had been accumulating for the past ten years. After the Asiatic Exclusion League had issued an alarming bulletin in 1912 on the control of land by the Japanese, the Democratic Party adopted as one plank in its 1913 campaign the following: "We favor the passage of a bill that will prevent any alien not eligible to citizenship from owning land in the State of California." 68 To the delight of the League such a bill was introduced into the California legislature.

But Japan expressed anything but delight, as did President Wilson. Yet he was inclined not to interfere, because he considered the bill a matter of state policy. "The Democratic party, the historic defender of state rights, had included in its platform of 1912 an unusually strong plank denouncing the usurpations of the federal government under the Republican regime. The direct methods of Roosevelt and Taft were consequently out of the question if charges of inconsistency were to be avoided." 69 But when it looked as though the bill would pass, Wilson sent Secretary of State Bryan to California to dissuade the lawmakers from passing the bill or, at least, to remove the discriminatory


68 Tupper and McReynolds, p. 57.

features of it. But Bryan's attitude of evident sympathy for the Japanese irritated the governor and the Progressive legislature and strengthened them in their conviction to pass the bill. Thus, the Webb Bill and its amendment were overwhelmingly passed on May 2, 1913 by a vote of 73 to 3. Bryan left Sacramento on May 3, 1913.

"This bill allowed those ineligible for citizenship to hold agricultural lands under a leasehold for a term of three years. A longer term was not provided for. It was held by the advocates of the bill that it did regard treaty rights, and actually conferred rights on all aliens ineligible to citizenship instead of debarring them from existing rights, and thus it was free from objection or offense." Professor Buell, however, points out that this bill was a direct affront to Japan, because "This bill left to aliens ineligible to citizenship all rights to real property granted by treaty, but no others—except the right to lease land for three years." Under the terms of the treaty of 1911 the

70Ibid., pp. 55-56. Bailey gives a shrewd analysis of Bryan's seemingly unsuccessful trip. He concludes, "Probably this gesture of friendliness, though barren of tangible results, did more than any other one thing to avert a serious crisis." (p. 56).

71Tupper and McReynolds, p. 61. Bailey seems to take a different view of Bryan's conduct; but he concurs with the conclusion of Tupper and McReynolds in his article, "California Land Legislation," p. 55.

72Ibid.

73Ibid.

74Raymond L. Buell, "Development of Anti-Japanese Agitation in the United States," Political Science Quarterly, XXXVIII (March 1923), 63-64. This is a continuation of the article cited earlier.
Japanese were not granted the right to acquire land. Now they had no rights in regard to acquiring real property whatever. To further discriminate against them the bill endowed aliens eligible for citizenship with the same rights to real property as actual citizens. It was no wonder Japan formally protested and that talk of war spread throughout the press. The Japanese Ambassador, Chinda, declared that the bill was "unfair, inequitable, discriminatory, prejudicial to the rights of Japanese in California, inconsistent with the treaty of 1911, and opposed to the spirit of amity existing between the two nations."76

Even though the bill was discriminatory, it did not solve the existing problem in California. For the bill naturally looked to the future, whereas the problem of Japanese ownership of land actually existed in 1913. As Buell pointed out, the bill was powerless to remove the Japanese from the land, because it did not deprive them of the land they already owned. Furthermore, the Japanese could legally renew their three-year leases on the land and continue to hold it indefinitely.77 American lawyers also aided the Japanese by setting up corporations, trusteeships, and guardianships with Americans in the

75 Ibid., p. 64.

76 U. S. Department of State, Papers Relating to the Foreign Relations of the United States: 1913 (Washington, 1920), pp. 629-631. This work will be cited hereafter throughout the thesis as Foreign Relations.

forefront, but Japanese in control. Hence, Californians were irritated at these circumventions of their law and saw the need for more stringent regulations. But with the intervention of World War I the problem faded into the background until 1919.

On April 1 of that year two bills were introduced into the California legislature. One deplored the picture bride situation which it proposed to remedy, while the other would abrogate the leasing provisions of the 1913 Land Law. If passed, the bills would undoubtedly offend the Japanese. Realizing this, Secretary of State Lansing cabled the governor to halt proceedings on these bills, because he thought it would imperil the results of the peace conference then in progress at Versailles. The legislators dropped the bills; but the people and the press felt no such obligation to the Secretary of State.

In September, 1919 the Exclusion League was revitalized and affiliated with the American Legion (by now well organized), the State Federation of Labor, and the Native Sons and Daughters. Their combined program called for cancellation of the Gentlemen's Agreement, exclusion of "picture brides" as well as all Japanese as immigrants. If these resolves were not enough, they demanded confirmation and legalisation that Asians should be barred forever from


80 Ibid.
American citizenship and even proposed an amendment to the federal Constitution, whereby no child born in the United States would be given the right for an American citizen unless both of his parents were of a race eligible for citizenship. Here then were the aims of a group in California, albeit radical, but nonetheless vociferous and well organized.

The League pressed the governor for a special session of the legislature to consider its proposals; but he refused to yield to its demands. Instead, two initiative measures were placed on the ballot for the general election of 1920, one of which would effect a change in the Land Law of 1913. A second placed a poll tax of ten dollars on male aliens resident in California for their registration.

Meanwhile, the Exclusion League had the full support of the Hearst press and the American Legion. The latter organization put forth the Japanese danger to the West Coast in a movie entitled, "Shadows in the West," which has been called "one of the most vicious examples of propaganda witnessed in the state."

All this propaganda yielded fruit with the passage of the land law which, however, did not entirely remove the Japanese from the land, "as many of the

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81 Ibid., pp. 68-69.
82 Ibid., p. 70.
Japanese in California were already citizens, and therefore much of the land could still be held by the 'yellow' people.\textsuperscript{85} The people seemed to have voted for it out of a fear that California would lose prestige in the eyes of other states and to show the rest of the country that they really had grievances against the Japanese.\textsuperscript{86} But few in the United States by now had any doubts left on the latter point.

The description of these proceedings should be enough to indicate the tenor of public opinion on the West Coast and in the country at large. But to add to the ferment, the United States Supreme Court handed down several decisions involving Japanese, which must now be considered to round out the picture of anti-Japanese feeling in the United States prior to the Immigration Act of 1924.

On November 13, 1922 the Supreme Court handed down a decision which again confirmed the fact that Japanese citizens could not become naturalized citizens of the United States.\textsuperscript{87} In 1911, Takao Ozawa applied to the district court of

\textsuperscript{85}Tupper and McReynolds, p. 175.

\textsuperscript{86}Duell, "Anti-Japanese Agitation," XXXVIII, 72.

\textsuperscript{87}In dealing with Supreme Court cases, one finds three main sources which, according to legal practice, are cited for each case under consideration. The official edition, which is most common and takes precedence over the others, is: United States Reports: Cases Adjudged in the Supreme Court. 361 vols. to date, Washington. The common citation for this work would be, for example, 260 U.S. 178. The letters give the edition, the first set of numbers the volume, and the second set of numbers indicates the page on which the case begins. This latter number must be given at all times even if the quoted material is not from that page, because all legal bibliographies are organized in terms of the page number on which the case begins.

The second source is: United States Supreme Court Reports (Lawyers' Edition). 100 vols. with 3 vols. in a new series. Rochester, N.Y., 1917 to date. Citation for this set is: 67 (L. ed.) Supreme Court Reports 199. Again
the territory of Hawaii for admission as a citizen of the United States. He was a Japanese, born in Japan, but lived for twenty years in Hawaii and continental United States. He graduated from Berkeley, California, High School after which he spent nearly three years at the University of California. He not only educated his children in American schools; but he also attended American churches and used English in his home. 88 Even the court conceded "That he was well qualified by character and education for citizenship...." 89 But this was not the point at issue.

According to the statutes of the United States a person desiring to be naturalized had to be a free white person or alien of African birth or descent. 90 Since a free white person was defined as a member of the Caucasian race, it was evident that Osawa did not qualify. Hence, his petition for naturalization was denied by the district court of Hawaii whose decision was upheld by the Supreme Court. The court maintained that neither individual unworthiness nor racial inferiority were implied in its decision. The law simply did not apply to the Japanese. 91

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The first number gives the volume, followed by the edition, followed by the page on which the case begins.

The third source is: The Supreme Court Reporter, 80 vols., St. Paul, Minn., 1883 to date. Citation: l3 Sup. Ct. Rep. 65.

In the footnotes that follow I felt it sufficient to indicate the exact pagination in the official edition only.


89 Ibid.

90 Ibid., p. 192.

91 Ibid., pp. 191-196. For the press reaction to the decision see "Japanese Barred from Citizenship," Literary Digest, LXXV (December 2, 1922), 14-15.
Two other cases concerning land laws in Washington and California were argued in the following year. Frank and Elizabeth Terrace owned land in King County, Washington, which they wished to lease for five years to a citizen of Japan, N. Nakatsuka, who would use the land for agricultural purposes. But since the Alien Land Law of the state forbade such a lease, the appellants contended that the law conflicted 1) with the due process and equal protection clauses of the 14th Amendment; 2) with the treaty between the United States and Japan (February 21, 1911); and 3) with certain provisions of the constitution of the state of Washington.

The Supreme Court denied that the Washington law conflicted with the due process and equal protection clauses of the 14th Amendment, because, though the 14th Amendment protects land owners and the resident aliens from the arbitrary and unjustly discriminatory action of a state, it "does not take away from the State those powers of police that were reserved at the time of the adoption of the Constitution." Further, though Congress has exclusive jurisdiction over immigration, "each State, in the absence of any treaty provision to the contrary, has power to deny to aliens the right to own land within its borders." If a state could not do so, it is possible that all the land in it would be in

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92 263 U.S. 197; 68 (L. ed.) Supreme Court Reports 255; 144 Sup. Rep. 15.

93 Ibid., pp. 199-205.

94 Ibid., p. 217.

95 Ibid.
possession or ownership of non-citizens. 96

The alleged violation of the treaty of 1911 was disposed of on the ground that the treaty concerned only commerce and navigation. "The right to 'carry on trade' or 'to own or lease and occupy houses, manufactories, warehouses and shops', or 'to lease land for residential and commercial purposes', or 'to do anything incident to or necessary for trade' cannot be said to include the right to own or lease or to have any title to or interest in land for agricultural purposes." 97

The Court also denied the third point of the case and thus upheld the legality of the state law. Hence, the land was not leaseable to a Japanese. 98

A similar suit argued at the same time concerned the California Alien Land Law, November 2, 1920. 99 W. I. Porterfield wanted to lease eighty acres to a Japanese citizen, Y. Mizuno, both of whom lived in California. They also claimed that the California law denied equal protection of the laws secured by the 14th Amendment to aliens ineligible for citizenship. Furthermore, Porterfield claimed that the California law was unconstitutional, because it deprived him of the right to enter into contracts for leasing his realty, besides depriving Mizuno of liberty and property by debarring him from entering

96Ibid., pp. 220-221.

97Ibid., p. 223.

98Ibid., p. 224.

into a contract for the purpose of earning a livelihood. The court, however, denied the charges and upheld the California law by using its decision in Terrace v. Thompson as precedent.

Thus the Supreme Court lent the weight of its authority in favor of California. But that state had already found another authority to bolster its arguments for Japanese exclusion. This was statistical data. But as will be seen, not all the figures strengthened California's position. Some weakened it, while others actually destroyed it. But all help to clarify the underlying reasons for the wave of ill feeling generated from 1900-1924.

The following chart on the rate of entrance of Japanese into the United States, including Alaska and the Hawaiian Islands, needs little explanation. The discrepancy in the figures arises mainly from the method of classification after 1901. From both sets of figures, however, the rise and fall of immigration is quite evident.

The first point that one notices is that the so-called first gentlemen's agreement did show appreciable results in 1901 when the number of Japanese dropped to less than half of what it had been the previous year. The significant feature of the chart, however, points up the effect which the actual Gentlemen's Agreement had. The table also bears out what the Commissioner-General of Immigration noted, namely, that the Agreement did not really take effect until 1909. The rise of Japanese entrants was gradual during the

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100 Ibid., pp. 231-233.

101 Ibid., p. 233.

period 1911-1920 with an equally gradual decline from 1920-1923. The year 1924 showed a larger increase over the previous year than over any other year since the Gentlemen's Agreement took effect. The sharp decrease after 1924 is, of course, due to the exclusion act passed in that year.

(Table I)\textsuperscript{103}

The table which shows the geographical distribution of the Japanese in the United States should be studied in relation to the percentage chart worked out on the basis of those figures. When one does this, one is able to see more clearly why agitation against the Japanese existed on the West Coast and particularly in California.

Reading the charts vertically in the 1900 column, for example, one is struck by the uneven distribution of the Japanese in the nine major census areas of the country. Of the 24,326 Japanese in the country 18,269 resided in the Pacific area which comprised the states of Washington, Oregon, and California. This area then had 75 per cent of all the Japanese in the United States. The other 25 per cent was spread through the remaining states. California itself possessed within its borders 42 per cent of all the Japanese in the country and 56 per cent of those residing in the Pacific area. Such figures are telling; but they can also be over-played if one has an axe to

\textsuperscript{103}This table was compiled from several sources: Immigration Commission, Reports, III, table 9, pp. 144-144; Eleventh Annual Report of the Secretary of Labor, 1923 (Washington, 1923), Appendix I, table 1, flyleaf after p. 128; Paul, pp. 107-108. For a discussion of the method of compilation see Ichihashi, pp. 58-61.
**TABLE I**

RATE OF ENTRANCE OF THE JAPANESE INTO THE UNITED STATES

<table>
<thead>
<tr>
<th>Year</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1890</td>
<td>691</td>
</tr>
<tr>
<td>1891</td>
<td>1,136</td>
</tr>
<tr>
<td>1892</td>
<td>1,060</td>
</tr>
<tr>
<td>1893</td>
<td>1,380</td>
</tr>
<tr>
<td>1894</td>
<td>1,931</td>
</tr>
<tr>
<td>1895</td>
<td>1,150</td>
</tr>
<tr>
<td>1896</td>
<td>1,110</td>
</tr>
<tr>
<td>1897</td>
<td>1,526</td>
</tr>
<tr>
<td>1898</td>
<td>2,230</td>
</tr>
<tr>
<td>1899</td>
<td>2,844</td>
</tr>
<tr>
<td>1900</td>
<td>12,635</td>
</tr>
<tr>
<td>1901</td>
<td>5,269</td>
</tr>
</tbody>
</table>
grind as did the anti-Japanese groups in those areas. Hence, the actual number of Japanese resident in the Pacific area and in California is an important consideration.

Continuing to read the charts vertically, one becomes increasingly aware of the absolute disproportion between the number of Japanese in California as compared with the Pacific area and the rest of the country. And when we turn to a horizontal view of the figures, this point is further emphasized; for we see the steady and sometimes astounding increase of members of the Japanese race residing in that one area. It is no wonder then that California was the center of anti-Japanese agitation.

(Table II and III)

The next chart breaks down the total Japanese population into two groups, the native-born and the foreign-born. The native-born are those born in continental United States, while the foreign-born are those born anywhere else.

In the early period of Japanese immigration up to 1910 the foreign-born predominate. This is accounted for because the majority of immigrants at that time were single, male Japanese who remained single, partly because there were so few Japanese women in the United States. Hence, the birth rate during these years was quite low.

104 In the East South Atlantic area for the period 1900-1910 the numerical increase of Japanese was nineteen; but in terms of percentages this is an increase of 271.4 per cent. Washington for the same period had a numerical increase of 7,312 which is a 130.2 per cent increase. Thus, it seems, that percentage statistics can prove most any point.

105 Fourteenth Census, II, tables 5 and 11, pp. 31 and 37; Fifteenth Census, II, table 11, p. 35. The third table is my own work.
### Table II

**Geographical Distribution of Japanese**

**In the United States**

<table>
<thead>
<tr>
<th>Region</th>
<th>1900</th>
<th>1910</th>
<th>1920</th>
<th>1930</th>
</tr>
</thead>
<tbody>
<tr>
<td>United States</td>
<td>24,326</td>
<td>72,157</td>
<td>111,010</td>
<td>138,834</td>
</tr>
<tr>
<td>New England</td>
<td>89</td>
<td>272</td>
<td>347</td>
<td>352</td>
</tr>
<tr>
<td>Middle Atlantic</td>
<td>446</td>
<td>1,643</td>
<td>3,266</td>
<td>3,662</td>
</tr>
<tr>
<td>East N. Central</td>
<td>126</td>
<td>482</td>
<td>927</td>
<td>1,022</td>
</tr>
<tr>
<td>West N. Central</td>
<td>223</td>
<td>1,000</td>
<td>1,215</td>
<td>1,003</td>
</tr>
<tr>
<td>South Atlantic</td>
<td>29</td>
<td>156</td>
<td>360</td>
<td>393</td>
</tr>
<tr>
<td>East S. Atlantic</td>
<td>7</td>
<td>26</td>
<td>35</td>
<td>46</td>
</tr>
<tr>
<td>West S. Atlantic</td>
<td>30</td>
<td>428</td>
<td>578</td>
<td>687</td>
</tr>
<tr>
<td>Mountain</td>
<td>5,107</td>
<td>10,647</td>
<td>10,792</td>
<td>11,418</td>
</tr>
<tr>
<td>Pacific</td>
<td>18,269</td>
<td>57,703</td>
<td>93,490</td>
<td>120,251</td>
</tr>
<tr>
<td>Washington</td>
<td>5,617</td>
<td>12,929</td>
<td>17,387</td>
<td>17,837</td>
</tr>
<tr>
<td>Oregon</td>
<td>2,501</td>
<td>3,418</td>
<td>4,151</td>
<td>4,958</td>
</tr>
<tr>
<td>California</td>
<td>10,151</td>
<td>41,356</td>
<td>71,952</td>
<td>97,456</td>
</tr>
<tr>
<td>Region</td>
<td>1900</td>
<td>1910</td>
<td>1920</td>
<td>1930</td>
</tr>
<tr>
<td>------------------------</td>
<td>------</td>
<td>------</td>
<td>------</td>
<td>------</td>
</tr>
<tr>
<td>Pacific Area</td>
<td>75.</td>
<td>80.</td>
<td>84.</td>
<td>87.</td>
</tr>
<tr>
<td>(Cal., Ore., Wash.)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>United States</td>
<td>25.</td>
<td>20.</td>
<td>16.</td>
<td>13.</td>
</tr>
<tr>
<td>(All Others)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>California</td>
<td>42.</td>
<td>57.</td>
<td>65.</td>
<td>70.</td>
</tr>
<tr>
<td>United States</td>
<td>58.</td>
<td>43.</td>
<td>35.</td>
<td>30.</td>
</tr>
<tr>
<td>(All Others)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>California</td>
<td>56.</td>
<td>72.</td>
<td>77.</td>
<td>81.</td>
</tr>
<tr>
<td>Pacific Area</td>
<td>44.</td>
<td>28.</td>
<td>23.</td>
<td>19.</td>
</tr>
<tr>
<td>(Wash., Ore.)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
But after 1910 the situation changed completely and, we might add drastically. The native-born in 1920 were still in the minority; but this was not the main point. Their increase in number and percentage should engage our attention. Two conclusions, it seems, can validly be drawn. After 1910 the Gentlemen's Agreement was in full working order. Hence, one would expect the number of foreign-born to decrease. This actually happened if we look, not at the actual number present in 1910 and 1920, but at the difference between the 1900 and 1910 figure and at the difference between the 1910 and 1920 figure. Thus, the foreign-born increased from 1900-1910 by 43,598, while from 1910-1920 they increased only 13,683. Though these figures do not take into account the death rate, we feel they are still valid since that factor is ignored throughout the discussion. There is no evidence to show that death was a more potent factor before or after 1910.

On the other side of the chart we see a marked increase in the native-born after 1910. We feel that the increased immigration of Japanese women under the guise of picture brides is greatly responsible for the rise of native-born Japanese during this period.
### TABLE IV

NATIVE-BORN AND FOREIGN-BORN JAPANESE

IN THE UNITED STATES

<table>
<thead>
<tr>
<th>Year</th>
<th>Native-born</th>
<th>Foreign-born</th>
<th>Total Japanese in United States</th>
</tr>
</thead>
<tbody>
<tr>
<td>1900</td>
<td>Numerical: 269, Per cent: 1.1</td>
<td>Numerical: 24,057, Per cent: 98.9</td>
<td>24,326</td>
</tr>
<tr>
<td>1920</td>
<td>Numerical: 29,672, Per cent: 26.7</td>
<td>Numerical: 81,338, Per cent: 73.3</td>
<td>111,010</td>
</tr>
<tr>
<td>1930</td>
<td>Numerical: 68,357, Per cent: 49.2</td>
<td>Numerical: 70,477, Per cent: 50.8</td>
<td>138,834</td>
</tr>
</tbody>
</table>

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106. Fifteenth Census, II, table 8, p. 34.
CHAPTER III

IMMIGRATION ACT OF 1924

When President Coolidge signed the Immigration Act on May 26, 1924, presented to him by Congress, he put his stamp of approval on a bill that had involved months of proximate and years of remote planning.¹ Hearings had been held before the Committee on Immigration and Naturalization in both the House and Senate.² All phases of the immigration problem had been thrashed out in public debates on the floors of the House and Senate. What Coolidge signed that day, therefore, was not just a carefully planned document; more important, it was a comprehensive immigration law which would regulate the flow of aliens to American soil from all the countries of the globe. But more than that, the new law put an end to the "Melting-Pot" theory, based upon the belief that the United States could absorb the surplus population of other lands and fuse these diverse elements into a new and homogeneous people. In place of this idea the principle of selection was adopted, which sought to make permanent the racial

¹Robert De C. Ward, "Our New Immigration Policy," Foreign Affairs, III (September 15, 1924), 110.

²Consult the bibliography for the listings of the Hearings. From July 12, 1920 to August 3, 1920, the House Committee held hearings in the principal cities of California to gather evidence on the Japanese question. Both Houses conducted hearings in Washington in the early months of 1924 when H.R. 7995 was under consideration.

The writer has refrained from quotations from the Hearings, because he does not feel they add anything significant to what is contained in the Congressional Record for the period, and because they are not as easily accessible as the Congressional Record.
character of the United States as it was in 1924. 3

Hence, it was no wonder that the act and the seemingly interminable debates before its adoption were followed with careful attention in the capitals of northern and southern Europe and Asia, particularly by Japan. For she was the one major power in Asia which would be drastically affected by the new law since the Chinese had already been excluded as early as 1892 and other Asiatic groups under the Barred Zone Act of 1917. 4

The act, as we mentioned, was a comprehensive one. It was not directed primarily against Japan, though the exclusion clause aimed at her subjects probably evoked more comment and criticism than any other single section of the law. But through the law Congress intended to settle the immigration question which it had postponed in 1921, when it simply renewed the major provisions of the Immigration Act of 1917 until June 30, 1924. 5 In the intervening years the Senators and Representatives felt they could draw up permanent legislation more attuned to national and international developments.

Any one of several solutions could have been adopted. At opposite ends of the pole were unrestricted immigration and complete exclusion of all aliens.

3"End of the "Melting-Pot" Theory," Literary Digest, LXXI (June 7, 1924), 14.


These were the black and white areas; but from the debates at the time, of the two, those who proposed complete exclusion gained the ascendancy. Most proposals, however, centered in the gray area a little left or right of center, depending whether they favored leniency or strictness. To put all countries on the quota system would have solved all discussion about the "old" and "new" immigration. Complete cessation of immigration for three to five years had the advantages of allowing the United States "to digest what it already had." Those aliens whom the Supreme Court ruled ineligible to citizenship could be excluded by legislation or treaty. However, the final law which Congress passed combined several features from these various solutions.

The Immigration Act of 1924 retained the quota principle which had been in effect under the 1921 law. But it made several significant changes. The new law not only altered the percentage basis, but also the base upon which the percentage operated. Thus from July 1, 1924 to July 1, 1927 the annual quota of any nationality admissible to the United States would be two per cent of the number of foreign-born of that nationality, who were resident in this country according to the census of 1890, with the minimum quota for any one group set at 10%

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6 In this group we can count Sen. James D. Phelan of California, V. S. McClatchy, publisher of the Sacramento Bee, and Sen. Hiram Johnson of California.


In round numbers the total of quota immigrants would come to about 160,000.

But after July 1, 1927 the total of all quotas would be 150,000. The quota for a particular nationality was to be "a number which bears the same ratio to 150,000 as the number of inhabitants in continental United States in 1920 having that national origin . . . bears to the number of inhabitants in continental United States in 1920, but the minimum quota of any nationality shall be 100." This was the famous National Origins provision, proposed by Senator Reed of Pennsylvania and proclaimed one of the fairest and most constructive immigration provisions.

Nationality was to be determined by the country of one's birth. If colonies, dependencies, or self-governing dominions were enumerated separately in the census of 1890, these were treated as separate countries. Exceptions to the general nationality rule were children under twenty-one not born in the

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9The Statutes at Large of the United States of America (December, 1923 to March, 1925), ed., printed, and published by the authority of Congress under the direction of the Secretary of State, Vol. XLIII, Pt. 1, Chap. 190, Sec. 11 (a), (Washington, 1925), p. 159. Hereafter referred to as Statutes at Large.

The text of the act was also published in John B. Trevor, An Analysis of the American Immigration Act of 1924 (New York, 1924), pp. 400-423.

10Fairchild, p. 661.

11Statutes at Large, Vol. XLIII, Sec. 11 (b), p. 159.

12Ibid.

13Ibid., p. 108.

14Statutes at Large, Vol. XLIII, Sec. 12 (a), p. 160.
United States and accompanied by an alien parent also not born in the United States, and the wife of an alien whose nationality was different from her husband's. In the case of the child, he or she assumed the nationality of the parent, if the parent was entitled to an immigration visa. If the child was accompanied by both alien parents not born in the United States, the child assumed the nationality of the father, if the latter were entitled to an immigration visa. In the case of the wife whose nationality differed from that of her husband's, "if ... the entire number of immigration visas which may be issued to quota immigrants of her nationality for the calendar month has already been issued, her nationality may be determined by the country of birth of her husband if she is accompanying him and he is entitled to an immigration visa, unless the total number of immigration visas which may be issued to quota immigrants of the nationality of the husband for the calendar month has already been issued." In this respect the law considered the family as a social unit and had no desire to separate its members. The humanitarian consideration was just one which won for it praise from those who had witnessed the hardships many families suffered in former days. Heartbreaking scenes at Ellis Island were only too common in fact, to say nothing of the place they achieved in fiction.

But the matter of the percentage and the census of 1890 did not receive

15 Ibid.
16 Ibid.
17 Ibid.
18 Garis, p. 77. See also the comments of Rep. Fiorello La Guardia in Congressional Record, 68th Cong., 1 Sess., pp. 5886-5890.
In the old law the percentage had been three and the census used was that of 1910. In the light of immigration history one readily sees that the so-called "Nordic" element won out in the new law to the detriment of the peoples from southern and eastern Europe. In simple terms the battle between the "old" and "new" immigration in the 1890's found the "old" victorious in 1924.

Noteworthy with regard to the quota system was the way in which it was administered, that is, through the immigration visa. This visa constituted the immigrant's permission to leave his native country for the United States. It was issued by the American consular officer abroad upon application by the immigrant. In this way the United States was able to select immigrants at the source. This was the first genuine attempt to exercise control over the type of immigrant who came to America.

Besides this obvious effect this method also hit hard at steamship company races which resulted in congestion and hardship at such places as Ellis Island. Also, many of those who under the old law would have come simply by boarding a ship bound for the United States were excluded in their native country, when the consular officer saw they would never meet the requirements at the U.S.

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19 Ibid., pp. 63-64.
20 Ibid., pp. 72-75.
21 Fairchild, p. 662.
port of entry. Writers who have praised this new selective process as humanitarian have done so rightly, especially when we consider the families who, arriving at Ellis Island, were refused admittance to the United States and who had to seek passage back to their homeland. The 1924 Law would lessen such incidents, for the consular officer had power to refuse visas if he suspected that a particular immigrant was inadmissible under law. Hence, the position of this official also took on new importance.

Closely related to the new method of selection was the meaning of the quota system and to what it applied. The quota referred to the number of visas that could be issued each year. It did not refer to the number of immigrants actually admitted to the United States. Hence, if a certain country had a quota of 3,086 as France did, she had no assurance that number of her subjects would be admitted, because they still had to submit to the series of tests demanded by United States law. "The visa simply gives the immigrant the right to apply for admission, with the assurance that he will not be excluded for quota reasons." The visa, therefore, determined the admissible, not the

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23 Ibid., and Garis, p. 77.
24 Fairchild, p. 663.
25 Ibid.
26 U. S. Department of Labor, Eighteenth Annual Report of the Secretary of Labor: 1930 (Washington, 1930), p. 64. Until July 1, 1929, when the National Origins provision went into effect, France's quota had been 3,954.
27 Fairchild, p. 663.
admitted. Thus, if twenty of France's subjects were refused admission because of physical or mental debilities, twenty more immigration visas were not issued for that year. The country took a loss, as it were, for that year. Hence, the United States did not always receive the total quota of 150,000 each year. 28 For the law specifically stated that "There shall be issued to quota immigrants of any nationality (1) no more immigration visas in any fiscal year than the quota for such nationality. . . . ." 29

In the same vein the annual immigration could also fluctuate, because the visa extended for four months. Hence, if someone applied late in the year, but did not arrive in the United States until the following fiscal year, he was counted in the quota for the year in which he applied for the visa. But in the reports of the Immigration Commission he would be listed in the year in which he actually entered the United States. 30

Though the administration of the law assumed new importance, actual selection of individuals became of prime concern. For who was an immigrant? Who came under the quota? The law defined an immigrant in the following terms:

any alien departing from any place outside the United States destined for the United States, except (1) a government official, his family, attendants, servants, and employees, (2) an alien visiting the United States temporarily as a tourist or temporarily for

28 Labor Department, Eighteenth Annual Report, p. 83. The total quota turned out to be 153,714 because of the provision that the minimum for any country was 100. In 1930 out of this number only 141,197 quota immigrants were admitted.

29 Statutes at Large, Vol. XLIII, Sec. 11 (f), p. 160.

30 Fairchild, p. 663.
business or pleasure, (3) an alien in continuous transit through the United States, (4) an alien lawfully admitted to the United States who later goes in transit from one part of the United States to another through foreign contiguous territory, (5) a bona fide alien seaman serving as such on a vessel arriving at a port of the United States and seeking to enter temporarily the United States solely in the pursuit of his calling as a seaman, and (6) an alien entitled to enter the United States solely to carry on trade under and in pursuance of the provisions of a present existing treaty of commerce and navigation.\(^{31}\)

But as the law was quick to point out, the term _immigrant_ had two major subdivisions, the non-quota immigrant and the quota immigrant.\(^{32}\) In general the non-quota immigrants fell into the following classes: 1) wives of citizens of the United States or their unmarried children under eighteen years of age; 2) citizens of countries of the Western Hemisphere; 3) former immigrants returning from temporary visits abroad; 4) ministers or professors in addition to their wives and unmarried children under eighteen; and 5) bona fide students at least fifteen years old enrolled in an accredited institution.\(^{33}\) All other aliens were designated as quota immigrants.\(^{34}\)

Both groups had to apply for immigration visas proper to their status. The non-quota immigrants had to prove to the consular officer that they really were non-quota immigrants before he could issue a non-quota immigration visa. Hence, the burden of proof was with the immigrant.\(^{35}\) If they could not prove

\(^{31}\) _Statutes at Large_, Vol. XLIII, Sec. 3, pp. 154-155.

\(^{32}\) _Ibid._, p. 155.

\(^{33}\) _Ibid._

\(^{34}\) _Ibid._

\(^{35}\) _Garis_, p. 63.
this fact through documents or affidavits, they were refused a visa. In this way the United States protected itself from a rash of illegal entries and relieved itself of the sometimes expensive burden of proving to an immigrant that he or she was not admissible under the laws. 36

These, then were the major provisions of the 1924 Law. For our purposes the administrative details, the preference among the quota immigrants, and the clause on alien seamen need not concern us. Only one section of the law remains to be studied and that is the most important section for this thesis, Section 13, which listed those who were excluded from the United States. Of special interest is article (c) which stated: "No alien ineligible to citizenship shall be admitted to the United States unless such alien (1) is admissible as a non-quota immigrant under the provisions of subdivision (b), (d), or (e) of section 4, or (2) is the wife, or the unmarried child under 18 years of age, of an immigrant admissible under such subdivision (d), and is accompanying or following to join him, or (3) is not an immigrant as defined in section 3." 37

This was the clause that the Japanese found so repugnant and so injurious to their pride as a nation. This was the clause that ended the Japanese problem in terms of immigration, but which shook the foundations of American-Japanese relations. This too was the clause that showed America's immigration policy, in the words of one writer, to be one of "selfish altruism." 38

36 Statutes at Large, Vol. XLIII, Sec. 7, pp. 156-157.

37 Ibid., Sec. 13, p. 162.

38 Geris, p. 65.
welcomed the immigrant because we believed his coming was good for us as a people and as a nation. Once the climate of opinion changed after World War I, we proceeded to exclude him.\(^{39}\)

By the provision in the new law the ordinary Japanese citizen was denied all further hope of entrance into the United States. Though the provision made no specific mention of the Japanese by name, there was no doubt about its primary object. The Chinese had already been excluded by law as early as 1892. Hence, those who insisted that Japan was not the principal object were simply closing their minds to the facts.\(^{40}\) Furthermore, debates and investigations prior to the enactment of the law specifically named Japan as the cause for including an exclusion clause in the law. For she was the only Asiatic country not already excluded by domestic legislation.\(^{41}\) Among Asiatic peoples she enjoyed a somewhat privileged status up to 1924, since immigration from her territory was regulated by the Gentlemen’s Agreement, which was an executive agreement.\(^{42}\)

Yet, like most laws the new one also admitted some exceptions. The exceptions referred to in the exclusion clause were enumerated in Section 4 of the law.\(^{43}\) Of the non-quota immigrants those admissible were immigrants who

\(^{39}\)Ibid., and Fairchild, p. 657.

\(^{40}\)Congressional Record, 68th Cong., 1 Sess., p. 2774. This was a statement of the California departments of the American Legion, the American Federation of Labor, the Grange, and the Native Sons of the Golden West in reply to Japan’s Foreign Minister, Mr. K. Matsui.

\(^{41}\)Paul, pp. 15-17.

\(^{42}\)Fairchild, p. 664.

\(^{43}\)Statutes at Large, Vol. XLIII, Sec. 4, p. 155.
had previously been lawfully admitted and were returning from a temporary visit abroad, ministers of religion and professors plus their wives and unmarried children under eighteen, and bona fide students at least fifteen years old.

The final group that could be admitted were those six types listed in Section 3 of the law, which we quoted in full on pages forty-six and forty-seven. Thus, for general discussion purposes diplomatic personnel, tourists, ministers of religion, professors, students, seamen, and those engaged in trade were allowed access to the United States by reason of their status. These same groups had been accorded the identical privilege by the Gentlemen's Agreement which the new law superseded. Hence, these groups neither gained nor lost any privilege of entry by the law, because they had also been allowed free transit under the Gentlemen's Agreement. But by the words ineligible to citizenship they, like the ordinary Japanese citizen, who desired to earn his livelihood in the United States, were placed in a definitely discriminatory category. Thus, if a professor, for example, who had legitimately entered in order to teach at an accredited institution, decided to forsake the teaching profession for a job in a factory where he could earn a larger salary, he and his family were immediately deported, because they no longer came within the excepted list.

But unlike his privileged brother the common Japanese citizen was absolutely and completely refused entrance into the United States. This, one might object, was exactly what the Gentlemen's Agreement did, so that the new law should have offered no grounds for complaint. The end was certainly the same, that is, exclusion of Japanese laborers; but the means were radically different. This choice of means was the point at issue.

Japan herself realized that the United States would never allow
unrestricted immigration of her nationals to this country. She, therefore, showed her goodwill in her concern to preserve the Gentlemen's Agreement. For with it she enjoyed a privileged status among Oriental peoples. Despite what her critics in California charged, she gave ample proof of her intentions in this matter. Otherwise, one is hard pressed to explain her action when she voluntarily applied the Gentlemen's Agreement to Hawaii. Moreover, she stopped picture brides in 1919 at the request of the United States government and informed America she was ready to cooperate in any way whatsoever not only to enforce, but also to strengthen the Gentlemen's Agreement. She directed all her efforts toward the one objective that no exclusion clause be enacted into law.

But when Japan saw that the Gentlemen's Agreement had become so unpopular in Congress, she supported the plan to have her numbered among the quota countries, that is, to be placed on an equal footing with the European countries. Even though the number was small, at least the plan "... does not, at least apparently, fix the stigma of inferiority upon her, and therefore, saves her national pride." But the opposition in Congress, which will be seen in

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45 See the series of articles in the Annals, XCIII (January 1921), especially Part I, pp. 1-120.

46 Foreign Relations, 1924, II, 336.

47 Ibid., p. 335.

more detail later, was too strong. The exclusion clause was adopted by both houses as an integral part of the bill which President Coolidge signed on May 26.

The new law differed with the Gentlemen's Agreement in form and in content. As we mentioned in the second chapter, the Gentlemen's Agreement was a secret, diplomatic agreement arranged by President Roosevelt and the Japanese government, whereas the Immigration Act of 1924 was a law, adopted by the highest law-making body of the land and approved by the President. Because the Gentlemen's Agreement, which one writer called "a great moral victory for Japan,"\(^49\) was a purely executive order whose terms were contained in vast correspondence that had not been published by 1924,\(^50\) it seemed to take on an un-American character.\(^51\)

Also in form the Agreement looked to Japan for administration. The new law wrested this control from a foreign power and placed it squarely with the United States government. On such a purely domestic question as immigration Congress was within its right to demand and actually to exercise control. For, as several pressure groups in California commented, the United States was obliged under the Gentlemen's Agreement to accept any Japanese citizen who came


\(^50\)The important features of the Gentlemen's Agreement along with much of the correspondence in which it is contained are now available in *Foreign Relations*, 1924, II, 339-369.

\(^51\)Paul, p. 9.
to our shores provided he had no contagious diseases. Since no other country allowed such an immigration policy to exist, why should the United States? The logical conclusion was, "we should regulate our immigration . . . in accordance with our own interests, by our own laws, enforced through our own departments by our own officials." 52

The content of the new legislation did not center exclusively on Japanese laborers, but rather the entire Japanese population by using the stigma, ineligible to citizenship, as the basis for exclusion. The new law restricted, nay excluded, on a racial basis. Individual merits of immigrants were of no concern as long as they were "Japs," a word most hateful to the Japanese people. The few exceptions were mostly immigrants who would be in the United States temporarily or who came because of family ties. It proved to the Japanese people and to the world that with one exception the United States was to be "a white man's country." 53

From what we have discussed of the differences of the Act and the Gentlemen's Agreement, we can see some of the purposes behind it. But in the section that follows we have limited the discussion to the purpose of the

52 Congressional Record, 68th Cong., 1 Sess., p. 2774. See footnote forty for the names of the groups.

53 Fairchild, p. 664. He claims that exclusion was inherent in American thought because of the legislation against the Chinese starting in 1892 and against other Asians by the Barred Zone Act in 1917. The "illogical exception," as he termed it, was the Negro who is granted the benefits of citizenship because he came to this country unwillingly.
exclusion clause, because this is the most important point for our study.

The first and most obvious purpose of the exclusion clause aimed to curb any influx of Japanese into this country. But to curb or to restrict immigration was not enough. The Gentlemen's Agreement had also done that. The new law excluded all Japanese except those already mentioned. And yet to say that the law closed the United States to the Japanese still leaves the question open. Why did Congress want to exclude them? What were the underlying reasons which prompted this desire for exclusion? For an accurate answer we feel that the debates in the House and Senate are essential, because they serve as sounding boards for the different regions of the country.

Senator Underwood (Alabama), for example, claimed that the principal purpose for restriction was "to protect American labor in its efforts to maintain the high standard of wages and the proper standard of living which it has built up in the decades that lie behind us." This could only be achieved if the hordes of unskilled immigrant laborers were barred from our cities. Representative Hudson (Michigan) thought we had enough such workers here already. Any more would be a threat to the ordinary citizen eking out his livelihood. In glowing phrases he argued, "The fight to-day for restricted immigration is the fight of patriotism that runs parallel with the hearths of American homes and the altars of American ideals and the foundations of American institutions."

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54 Congressional Record, 68th Cong., 1 Sess., p. 6457.

55 Ibid., pp. 5640-5641.

56 Ibid., p. 5641.
From what we noted in the last chapter about the labor situation on the West Coast, we can understand that this concern for the American worker took on added importance in California. There the Japanese were always pictured as hardworking and yet asking low wages.\textsuperscript{57} Hence, they offered double competition, numerical and qualitative, to the American laborer. For what employer would not be attracted by an industrious employee who could be satisfied with paltry wages? It was no wonder the organized labor groups protested so vehemently\textsuperscript{58} and that the Immigration Commission made such a detailed study of the labor situation in the principal cities on the West Coast.\textsuperscript{59} Yet the Japanese were not without admirers; but Representative MacLafferty (California) probably reflected the prevalent sentiment when he said, "I am an admirer of the Japanese; but above all and beyond all, I admire them most in Japan and not on the Pacific coast of North America."\textsuperscript{60} The Long Beach, California, Chamber of Commerce added the note that the presence of the Japanese in considerable numbers in any one place constituted "a positive un-American liability and not an asset."\textsuperscript{61}

\textsuperscript{57}Ibid., p. 5884. See also James D. Phelan, "Why California Objects to the Japanese Invasion," Annals, XCIII (January 1921), 16-17.

\textsuperscript{58}Frank Morrison, Secretary of the A.F. of L., quoted in "Opening Guns in the Immigration Fight," Literary Digest, LXXVII (May 1923), 11.


\textsuperscript{60}Congressional Record, 68th Cong., 1 Sess., p. 5680.

\textsuperscript{61}Ibid., p. 5807.
Such statements represented the thinking at the time about why the Japanese should have been excluded. It is not our desire or task here to substantiate the truth of every such claim. But in passing it should be noted that in much that emanated from California there was frequently more heat than light. The important point is that protection of American labor was a principal motive for seeking immigration restriction in general and Japanese exclusion in particular.

Yet this economic motive, originally the central reason proposed for exclusion, gave way to the racial which took two distinct attacks. The first, though not a purely racial question, was the desire to preserve the United States from the Yellow Peril, which, according to Japanese opponents, threatened to engulf entire states. Japan's expansion in the Far East, her position in world affairs, and her ever-growing population boded ill for the United States. But for her opponents these factors loaded their argumentative guns. The Pacific coast was no different from an island in the Pacific in their line of reasoning. Japan would colonize it by infiltration and eventually make it part of her empire. The course open to any red-blooded American was obvious. Thus Japanese imperialism became a potent weapon to incite race prejudice. Just the sight of the "little brown men" on the streets and in the shops, it was hoped, would recall their real purpose in America—to take over an entire city or area for Japan.

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63 Congressional Record, 68th Cong., 1 Sess., p. 2774.

64 Ibid., p. 5680.
But the main racial argument for exclusion centered around the word *unassimilability* heard in increasing frequency in the years after the war. The Japanese, as Roosevelt had noted earlier, had customs, history, and a way of life which were different from those of Americans. This was nothing more than to declare the basic difference between the Oriental and Occidental. But to many Americans Japan seemed a special threat to what was variously called "national distinctiveness," "racial harmony," "racial integrity," and "national homogeneity." Because the Japanese were not among the original stock of the founding fathers of this country, and because they possessed a different and distinct cultural background, they were said to be unassimilable to American way of life. According to V. S. McClatchy, it was practically impossible to make valuable and loyal American citizens out of the Japanese. They could not assimilate, he argued, because of their racial characteristics, heredity, and religion. Moreover, they may not assimilate because the Japanese government always claimed every Japanese as its citizen no matter

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65 Paul, p. 3.

66 *Congressional Record*, 68th Cong., 1 Sess., p. 5696.

67 Ibid., p. 6457


69 Ibid., pp. 660 and 664.

70 V. S. McClatchy was an ardent exclusionist. As publisher of the *Sacramento Bee*, Sacramento, California, he wielded great power.
where he resided. Thirdly, the Japanese will not assimilate, according to him, because they have shown no disposition to do so.

In this latter connection one remembers the comment of The Rocky Mountain Times, a Japanese newspaper published in Salt Lake City, at the time of the Takeo Ozawa court decision which was discussed in chapter two. With the Supreme Court ruling that the Japanese were ineligible for citizenship, the writer asserted, "we are compelled by that very decision to remain a separate and distinct community and race amidst American society, unable to cooperate efficiently with others." 72

Japanese citizens, therefore, hung on the horns of a dilemma. The Supreme Court had ruled them ineligible for citizenship, thus isolating them from the stream of American life. On the other hand they were accused of not assimilating to that very stream of life from which they were barred. Furthermore, if they had tried to bridge the gap by intermarriage, they would have been roundly condemned by those who thought intermarriage biologically undesirable, because it "would destroy homogeneity and tend to mongrelization." 73

Yet in the furor that sold the daily papers, the note of non-inferiority was constantly interjected. Exclusion implied no theory of superiority on the part of the Americans. It just meant that the Japanese were not assimilable to

71 V. S. McClatchy, "Japanese in the Melting-Pot: Can They Assimilate and Make Good Citizens?" Annals, XCIII (January 1921), 29.


73 Congressional Record, 68th Cong., 1 Sess., p. 6209; Flowers, pp. 264-265.
our way of life. Exclusion, therefore, was the best policy both for the Japanese and the Americans. What possible good could come from a large influx of foreigners who could not assimilate to American ideals and who owed allegiance to a foreign power? It would be better for all to exclude them. Such was the argument.

Of all the reasons proposed for exclusion on-assimilability was the most inflammatory, because it was a racial argument which brought out the worst in people. In the speeches and writings logic seemed almost obscured as has so often been the case when emotion has been allowed to run rampant. The opponents of this argument, we might hazard, were defeated before they began, because they met emotion with logic. Because they did not meet fire with fire, in the conflict emotion captured the prize.

The final argument for exclusion had a weight all its own when directed to a Congressional audience. This was the inherent right of Congress to control domestic matters. Probably the point upon which Congress insisted most strongly was the absolute control from this side of the ocean of the flood of immigrants. Ever since the Gentlemen's Agreement was arranged, Congress had felt its powers had been infringed upon. Immigration, after all, was a domestic question which Congress had a right and a duty to control. But in effect Japan directed the Gentlemen's Agreement. On this score the Agreement had to be opposed.

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74 Ibid., p. 5697.
75 Ibid., p. 5887
76 Ibid., p. 5925.
Moreover, Japan was accused of violating the Gentlemen's Agreement. 77 Congress, therefore, felt the United States needed to assert herself and "... determine whom and how many she will permit to enter her gates. ..." 78 But these accusations brought replies and protests from Japanese officials and from American and Japanese writers alike. 80 Sidey L. Gulick, for example, charged that, "The persistence with which this charge of bad faith has been made reflects on the information, the intelligence, or the moral character of those who made it." 81 He further declared that even V. S. McClathiey thought it unnecessary to question Japan's good faith. The more correct statement of the case was that the Gentlemen's Agreement failed to produce the desired results. 82 Congress, therefore, desired control of a domestic issue, not only because such control was its right and duty, but also because Japan was lax in performing her duty. This seemed to be a strong argument; but further strength was added when the question of Executive power was broached. Congressional leaders

77 "Has the 'Gentlemen's Agreement' Been Violated?" World's Work, XLVIII (June 1924), 127-128.
78 Congressional Record, 68th Cong., 1 Sess., p. 5443.
79 Foreign Relations, 1924, II, 334-337.
80 See Annals, XCIII (January 1921), 1-121; Ibid., CXXII (November 1925), 181-213.
82 Ibid.
had been annoyed from the beginning that President Roosevelt agreed to the
Gentlemen's Agreement, even though the President had been completely within his
rights. Yet, Congress was also within its rights in insisting on control. Representative Free, a rabid exclusionist, went so far as to declare that the
Gentlemen's Agreement had "no justification in law or under our constitution...
yet we are considered as bound by it."\(^3\) This judgment was, of course, un-
sound; but it cleared the air by boldly demonstrating the constant jealousy
that existed between the two branches of the government. Some senators even
saw the Senate's power to ratify treaties jeopardized, if the State Department
were permitted to contract more diplomatic measures like the Gentlemen's
Agreement. Senator Swanson reflected the thoughts of many senators when he
declared ". . . but I consider immigration a domestic question and I am not
willing to put in statutory law anything that will permit a domestic question
to be administered outside of this country."\(^5\) In the new law, however,
Congress asserted its prerogative over that of the Executive branch. Japan
would have nothing to say about those who entered the United States. Congress,
not the Executive, would be the sole determinant.

Thus combining the element of secrecy that surrounded the Gentlemen's

\(^{83}\) Congressional Record, 68th Cong., 1 Sess., pp. 5692-5693.

\(^{84}\) Ibid., p. 5925. Sen. Shortridge (California), while a radical exclusion-
ist, also agreed that the Gentlemen's Agreement had no legal validity; but he
said, "It should be observed between nations." Ibid., p. 5802.

\(^{85}\) Ibid., pp. 5829-5830.
Agreement with popular feeling against the Japanese, the legislature was able to strengthen its case. No one could deny the right upon which Congress insisted; but observers agreed that Congress "might have accomplished it in a more diplomatic manner."

In terms of effects the Immigration Act of 1924 achieved what it had set out to do. It did effectively stop the Japanese from coming to the United States. The Immigration Commission figures are ample proof of this. Only 682 entered the country in 1925 and 598 in 1926 as compared with 8481 in 1924.

But the unpleasant developments in diplomatic circles more than offset the telling results that were embodied in the impersonal statistical tables. As early as December 13, 1923 the Japanese Ambassador, H. Hanihara, protested to Secretary Hughes against "an arbitrary and unjust discrimination reflecting upon the character of the people of a nation, which is entitled to every respect and consideration of the civilized world." Furthermore, Japan, could and did pass over the practical result of the bill, namely, the exclusion of a few hundred or thousand nationals each year. This was irrelevant in view of the principle at stake. The Japanese nation had been insulted by a foreign


87 Paul, pp. 107-108.

88 Foreign Relations, 1924, II, 335. The complete text of the Memorandum is given on pp. 334-337.

89 Ibid., p. 339.
power which had long proclaimed friendship in word and deed. 90 No wonder then that Japan refused to sit by idly without at least a verbal battle.

Like a horde of termites the new law gnawed at the diplomatic pilings upon which Roosevelt had built the gleaming structure of Japanese-American relations. But after the Act was passed, the pilings crumbled until the structure which they supported almost sank out of sight. Roosevelt had always insisted that our dealings with Japan should be marked with firmness, yet with courtesy and fair play. This policy maintained more than just our prestige in the family of nations. It actually prevented war which, as we saw in the last chapter, could have erupted over such incidents as the San Francisco school affair.

Yet Congress had determined to exercise its right especially after Ambassador Hanihara lit the fuse with his letter which some members of Congress interpreted as a veiled threat. 91 This point will be discussed in more detail in the following chapter.

To further darken a gray sky both Ambassador Woods and Hanihara resigned their diplomatic posts and returned to their native countries. Though ostensibly his resignation was not because of the Act, 92 it was well known that Ambassador Woods was utterly disgusted with the way Congress had interpreted

90 Eliot G. Mears, Resident Orientals on the American Pacific Coast (Chicago, 1928), p. 158.

91 Foreign Relations, 1924, II, 369-373.

92 Ibid., p. 394.
the Japanese Ambassador's letter. Some news reports even suggested that Hughes's only course was to tender his resignation.

Talk of war ruffled the calm Pacific, but the serious-minded on both sides of the ocean never for a moment entertained the thought. Particularly from Japan's standpoint war was unfeasible. She had not yet recovered from the crippling effect of the devastating earthquake that had begun in September, 1923.

That diplomatic relations between the two countries were never severed resulted largely from the positive efforts of Secretary Hughes and the common sense of Japanese government officials who realized that the new law did not reflect the opinion of the President or the State Department, since these two had opposed it from the beginning.

The efforts of the press, however, did not produce such worthwhile results. The various stages of the Congressional debates were followed in the leading newspapers and magazines of the day. When the Act was finally approved, press

93 "Japanese Truth at Exclusion," Literary Digest, LXXXI (June 14, 1924), 8 and Robert McElroy, "New Immigration Law Over Japan's Protest," Current History XX (July 1924), 648-652. Congress's interpretation of the letter is examined in detail in Chapt. IV. In the Senate Henry Cabot Lodge touched off a wave of excitement when he made reference to the letter as a "veiled threat."

94 Japan Weekly Chronicle (Kobe), May 29, 1924, pp. 733-747.

95 Ibid., May 8, 1924, p. 627 and 640; also May 22, 1924, p. 705.

96 In reading the English language press, particularly the Japan Weekly Chronicle, one is struck by the destruction caused by the quake and the intensity of the quakes which kept recurring for months.

opinion in the United States divided mainly on sectional lines. According to one survey those papers which approved of Japanese exclusion and the action of Congress constituted above five per cent of all the papers in the East. These were mainly the Hearst papers. In the mid-West the number increased to between forty and fifty per cent with roughly the same figure for the South. In the West, however, the number jumped to eighty per cent. 98 It was evident that Japan found more sympathy in the eastern states where Japanese immigration was not an acute problem.

The issue that seemed to evoke the bitterest comment was not whether Japan should have been excluded. The press agreed on that. What they objected to was the method employed in procuring the end. As the New York Times stressed, "It behooves the press of both countries to face these facts squarely and state them accurately. ... It is the way in which Congress has acted that gives cause for Japan's attitude, and not the end which Congress sought. This all good American friends of Japan are more than ready to admit." 99 This same sentiment was expressed when Hughes proposed that Japan be put on the quota basis with the European countries. 100 In an editorial the Review of Reviews declared, "Our relations with Japan are so important, and the position of Japan

98 Tupper and McReynolds, p. 193.


100 "Exclusion or Quota for Japanese?" Literary Digest, LXX (March 1, 1924), 14.
in the world—as the one great power of Asia and as one of the five recognized world powers—is so distinctive and superior, that Congress was not justified in tactlessly adopting Japanese exclusion by law against Japan's protest, when two other methods of exclusion, each of them more workable and effective, were entirely available. 101

Yet there were also those papers like the Louisville Courier-Journal which upheld the action of Congress. 102 The Detroit Free Press further commented that Japan should not have felt Congress's action as an affront, because she was just receiving the same treatment which she had meted out to China and Korea.

European newspapers also aired their views on the Act as the Literary Digest reported. 104 The London Westminster Gazette, for example, sounded the ominous note that the Act may have cost the United States more than it was really worth. 105 The columnist, Pertinax, writing in the Echo de Paris, declared that the Senate "had deliberately sacrificed the fruits of seventeen years of prudent diplomacy." 106 And from Paris Edwin L. James, Correspondent


102 Japanese Wrath at Exclusion, Literary Digest, LXXXI (June 14, 1924), 10.

103 Ibid.

104 The Japanese Ban on Americans, Literary Digest, LXXXI (June 21, 1924), 18-20.

105 Ibid., pp. 18-19.

106 Ibid., p. 19.
for the *New York Times*, declared that the majority of European diplomats were inclined to side with Japan against the United States.  

So went the comments of the American and European newspapers. Meanwhile, Japanese papers had been following the bill's progress through the House and Senate until it met final approval from Coolidge. Unlike the American press, the Japanese presented a united front differing only in the intensity of heat generated. We are indebted to the English language press of Japan during the period not only for presenting their own opinions, but also for summarizing the writings of the Japanese language press. In addition, our own magazines conducted surveys of leading citizens in Japan to call their views for presentation to the American audience.  

When Hughes first proposed the quota plan for Japan, to be discussed more fully in the next chapter, he was hailed by several Japanese papers for understanding the situation. Even though they did not wholeheartedly approve the plan, they realized it would be better than statutory exclusion. But as the months of negotiations dragged on, seeing the inevitable result coming, the press became more resentful in their comments. The *Yomiuri* noted sadly that the bill would probably be passed despite the efforts of Hughes and Coolidge, while the Hochi, disgusted with Congress, saw the specter of the Ku Klux Klan

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109 *Japan Weekly Chronicle* (Kobe), February 28, 1924, pp. 294-295.

lurking behind the bill. The Jiji pointed up the diplomatic aspect of the law and asserted that it was a very difficult problem for the Executive and Congress.\textsuperscript{111}

Once Coolidge signed the bill, however, the chauvinist press criticized him for not asserting his power.\textsuperscript{112} The Hoehi, for example, claimed that he would have needed the courage of Lincoln to risk his life and political career for the cause of humanity. This paper called his explanation for signing the bill an unconvincing excuse.\textsuperscript{113} The Osaka Mainichi had no doubts that Congress would have passed the law over Coolidge's veto. But it felt that a veto would have shown the Japanese that the President had the courage of his convictions, with the added result of improving Japanese sentiment toward America.\textsuperscript{114} The Japan Weekly Chronicle was naturally disappointed; but it affirmed, "... each country has the right to decide what people, or what class of people, shall be admitted."\textsuperscript{115}

Yet the majority of Japanese were the victims of sensational journalism which did not always keep the issues straight.\textsuperscript{116} Many ordinary citizens were

\textsuperscript{111}\textit{Ibid.}, p. 566.

\textsuperscript{112}\textit{Ibid.}, May 8, 1924, p. 642.

\textsuperscript{113}\textit{Ibid.}, June 5, 1924, pp. 781-785.

\textsuperscript{114}\textit{Ibid.}, p. 783.

\textsuperscript{115}\textit{Ibid.}

\textsuperscript{116}\textit{Ibid.}, pp. 771 and 783.

\textsuperscript{117}"Japan and Immigration," \textit{Review of Reviews}, \textbf{IXIX} (June 1924), 572-573.
ignorant of the governmental setup in America. Hence, they and even some in the Ministry of Foreign Affairs, as Ambassador Woods remarked, manifested utter dismay when the President signed the bill. They could not seem to grasp the fact that he was neither a king nor a dictator. Even the Jiji, "... not accustomed to speaking rashly on questions of foreign relations...," claimed that our government was essentially defective. As proof the paper cited the Versailles Treaty and the Immigration Act in which the President was at the mercy of Congress. In both cases Congress acted contrary to his wishes.

Two other papers played up the boycott of American goods to further incite the people. The Yamato, "... a paper of no particular standing, though sufficiently popular," and the Yorodsu and Yushin Nippo, "... as might be expected," marked American movies and gramophone records as their objects. But the move proved only mildly successful, because these two American commodities held too much attraction for the Japanese. But success or no, the boycott was "... indicative of the extent of bitterness felt."

118 Foreign Relations, 1924, II, 397.
119 Ibid., p. 374.
120 Japan Weekly Chronicle (Kobe), June 12, 1924, p. 324.
121 Ibid., June 19, 1924, p. 850.
122 Ibid.
123 Ibid., pp. 850-851.
124 Foreign Relations, 1924, II, 403.
Other incidents also expressed the deep-seated resentment and bitterness throughout Japan. One nameless young man, for example, in protest to the new law disemboved himself on the ruins of the American embassy which had been destroyed by the recent earthquake. Another, Asano Senosuke, hanged himself on a tree and left a letter to the United States Ambassador to have the law repealed. Rioters raided the Imperial Hotel in Tokyo and distributed handbills which advocated the boycott and the return of American missionaries to their homeland. July 1, the day on which the legislation took effect, was observed as anti-American day throughout the country. As the Japan Times and Mail commented, "Today, July 1, is destined to go down to long posterity, associated with the most unpleasant of memories." Such incidents showed the bitter feeling prevalent in Japan; but we must not make the mistake of thinking that the entire country was in turmoil. As an on-the-spot observer, Ambassador Woods seems to have pictured the situation accurately:

The tone of the press while giving in no way any indication of resignation tends to confirm the belief that there is a general realization here now of the fact that no immediate action favorable to Japan can be expected; also that violence looking to this end could have no beneficial result; and that Japan's best course under the circumstances is to adopt an attitude of restraint in the discussion of the situation hoping in this way to effect a change favorable to Japan through appeals to the sense of fair play of the American people realizing at the same time that this course will be most profitable to Japan through

125 *Japan Weekly Chronicle* (Kobe), June 12, 1924, p. 805.

126 Ibid., June 19, 1924, p. 870.

127 *Japan Times and Mail* (Tokyo), July 1, 1924, p. 1.

128 Ibid., p. 4.
its beneficial effect on world opinion coming as it does when general outbreaks of violence might have well been expected.\textsuperscript{129}

\textsuperscript{129}Foreign Relations, 1924, II, 403.
CHAPTER IV

ATTITUDE OF THE DEPARTMENT OF STATE TO THE IMMIGRATION ACT OF 1924

In the last chapter we analyzed the Immigration Act of 1924 in terms of its nature, purpose, and effects. In a sense, however, our scrutiny was done in the abstract, because we paid scant attention to the historical context in which the law was framed, and particularly to the attitude of the various branches of the government to it. True, the attitude of Congress could hardly have been overlooked since it was that body which formed and passed the law. Hence, in order to get at its purpose and the effects desired, we had to give attentive ear to what the Congressmen said and wrote; but we did not consider the attitude of the Executive branch of the government in detail and its efforts to promote or halt passage of the law. This was purposely left to form a separate chapter because of the importance of the Executive himself and, more specifically, of the Department of State under the leadership of the Secretary, Charles Evans Hughes, a man whose career was as varied as it was long.¹

¹Born on April 11, 1862, Hughes graduated from Brown University (1881), and received his law degree from Columbia (1888). He taught at Cornell for two years, was governor of New York (1906-10), and served on the Supreme Court (1910-16). He resigned this post to accept the Republican nomination in 1916 against Wilson. Later he served as Secretary of State under Harding and Coolidge (1921-26) during which time he arranged the Washington Conference. In 1930 he was chosen Chief Justice of the Supreme Court where he served until retirement in 1941. He died August 27, 1948. Consult the bibliography for biographies of Hughes.
In delineating the role of the State Department we will have to backtrack from the point upon which we concluded in the last chapter. For, as one might have suspected, the Department did not sit idly by as the negotiations for the bill advanced each succeeding day. It followed them with keen interest, always with American-Japanese relations in the forefront of its mind. This interest in the Immigration Act was all the keener, since the Department and the Executive had been opposed to the bill from its inception to the day it was finally adopted. If the Department had approved the bill, history would be different and there would be little or no purpose for this thesis. The exact points upon which Hughes expressed his opposition to the bill and the remedies he suggested will carry us through this chapter.

Though the press had hinted at Hughes's attitude toward restriction of immigration, it was not until Hughes formally stated his position on February 8, 1924, in a letter to the chairman of the House Committee on Immigration and Naturalization, Representative Albert Johnson (Washington), that the need for speculation ended. 2

As a prelude to the main body of his letter he gave his support to the idea of immigration certificates as a means to end many of the hardships which had previously fallen upon the innocent. 3 These certificates or visas, as they were termed in the wording of the final Act, would be issued by the consular

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officers provided they were equipped with the requisite staff and training.

But Hughes lingered only shortly upon this matter before he enunciated his official position on immigration and the concomitant problems.

At the outset he said, "It is hardly necessary for me to say that I am in favor of suitable restrictions upon immigration." This point must be kept in mind constantly as the discussions between Hughes and the senators and representatives progressed, because it appears from their speeches at the time that some members of Congress lost this valuable thread and accused the Secretary of wholly illogical and irrelevant statements.

Hughes, however, was not without misgivings as to the bill as originally proposed. Three points that particularly concerned the Department because of their international implications were: first, the question of treaty obligations; secondly, the exclusion clause directed against the Japanese; and thirdly, the establishment of the quota upon the census of 1890.

In the treaty between the United States and Japan of 1911 the citizens of each country were granted the right to enter, travel, or reside in the territories of the other to carry on trade and commerce and to do anything incident to this. But Hughes pointed out that there was no such exception in

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5 The bill remained essentially the same from its introduction to its adoption. Rodman v. Paul succinctly follows the bill on its progress from Committee to floor and back to Committee for revision in his book, pp. 13-57.


7 Ibid., p. 215. The treaty is also printed in Malloy, III, 2712-2717.

8 Ibid.
the definition of immigrant in the proposed Act to allow Japanese subjects to do this. Hence, he felt it violated our treaty with Japan. In addition he directed the chairman's attention to similar treaties with Great Britain, Denmark, Norway, Italy, and Spain. He proposed, therefore, to include the following clause in the list of exceptions to the definition of immigrant: "an alien entitled to enter the United States under the provisions of a treaty."  

The second point to treat was the actual exclusion clause which we have discussed in the last chapter. The wording of this clause remained unchanged from the first draft of the bill until the final draft. Hughes saw immediately that the clause was aimed at the Japanese. Hence, he scored it on two counts when he stated, "This is inconsistent with the provision of the Treaty of 1911 above-mentioned, and, with respect to those defined as immigrants who do not come within the treaty, it establishes a statutory exclusion."  

Hughes's concern with the second group was "... one of policy." Hence, it was clear that he did not oppose the exclusion clause because it excluded certain groups or because it restricted immigration. Rather, the Secretary registered his dislike for it because of the effect it would have had on the Japanese people. They would surely resent it as an insult to their

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9 Ibid., p. 216.
10 Ibid.
11 Ibid., p. 217.
12 Ibid.
And to argue, as we have seen earlier, that the clause was not directed primarily against the Japanese was idle, because, as Hughes emphasized, the exclusion laws against the Chinese were still in effect as were the Barred Zone restrictions with regard to other Asians. Hence, in the practical terms this clause singled out one group, the Japanese, a sensitive people, who would look upon the new law as affixing a stigma upon them.

This was one reason why the Secretary vigorously opposed the Act. But it was not the only one. Such an insult would have more far-reaching effects upon the two countries. The good results, achieved largely through Hughes, at the Washington Conference on Limitation of Armament would be impaired as would the feeling prevalent in Japan in 1923 about the charity and generosity of the American people who so admirably within the previous six months aided the Japanese, stricken by one of the worst earthquakes in her history. But despite this recent manifestation of charity resentment was bound to rise "... as this enactment would be regarded as an insult not to be palliated by any act of charity." This was the situation that would confront the United

13 Ibid.
14 Ibid.
15 Ibid.
16 The Japan Times and Mail (Tokyo) and the Japan Weekly Chronicle (Kobe) vividly describe the destruction from September 1923 through January 1924. Much credit is given to Ambassador Woods and American financial aid. Foreign Relations, 1923, II, contains the telegrams from Woods to Hughes and the requests for aid. They provide an excellent estimate of the destruction by one who was on the scene.

17 Foreign Relations, 1923, I, 217.
States if Congress passed the law. Whether Japanese feeling would be justified had little bearing on the subject. As Hughes emphasized in his realistic fashion, "... it is quite sufficient to say that it would exist." 18

Congress, therefore, was faced with a dual question. Would it be worthwhile to affront a friendly nation? And what gain would come from enacting the law? 19 In light of the history of relations with Japan in the first two decades of the twentieth century these questions could not be dismissed lightly.

Hughes, therefore, ventured his own solution to the problem, because he felt that the proposed legislation "... would seem to be quite unnecessary even for the purpose for which it is devised." 20 Hence, he believed it would have been better to have eliminated the exclusion clause and to have placed Japan on the quota system with the other countries. 21 Under such a plan Japan would be allowed 2,466 immigrants to enter the United States. This, he said, would be two per cent of the residents in the United States at the time of the census of 1890 in addition to 200. 22 Of course, the problem of the non-quota immigrants would still remain; but in view of the existing Gentlemen's

18 Ibid.
19 Ibid.
20 Ibid.
21 Ibid.
22 Ibid.
Agreement and the regulations that Japan had enforced with respect to those people who were seeking entrance into this country from contiguous territory, Hughes was confident that the non-quota immigrants would not offer an insurmountable problem. Japan, he noted, would be most careful in scrutinizing and regulating immigration from her shores to the United States if the threat of statutory exclusion loomed in the background. Such a plan would also be more practical for the United States to enforce in view of the many places along our borders where immigrants could make illegal entries. He, therefore, concluded, "I am unable to perceive that the exclusion provision is necessary and I must strongly urge upon you the advisability, in the interest of our international relations, of eliminating it. The Japanese Government has already brought the matter to the attention of the Department of State and there is the deepest interest in the attitude of Congress with respect to this subject."

The State Department was also concerned with a third point, the census of 1890 as the basis upon which the quota would operate. Hughes merely did two things in this regard. First, he drew the attention of Congress to the

\[23\text{Ibid., pp. 217-218.}\]
\[24\text{Ibid., p. 218.}\]
\[25\text{Ibid.}\]
\[26\text{Ibid.}\]
\[27\text{Ibid.}\]
representations of various European governments who considered the 1890 census a discriminatory feature. Secondly, he urged the Committee to weigh these communiques carefully and hoped that it would be possible "... to find some basis which will be proof against the charge of discrimination." The remainder of his letter discussed technical matters of administration and items that needed clarification. For our purposes they have no relevance.

Viewing the communication as a whole, one cannot but be impressed by the clarity of its presentation and the positive approach to the problem. Hughes made the all important admission that he was not opposed to immigration restriction, but only to the method employed as unnecessary and discriminatory. As a man of keen observation he was not slow to detect the undiplomatic character of the proposed law. And cognizant of the Japanese position, which Ambassador Hanihara had expressed in a memorandum to the State Department, he knew they also objected to the bill, not in principle, but only to the means used to achieve the desired end of immigration restriction. Hence, the solution he proposed to Congress would have satisfied Congress on the one hand and would have calmed the ruffled feelings of a sensitive and proud people on the other. To have placed Japan on the quota system like the European countries would at once have eliminated the treaty problems he discussed in the

28 Ibid.
29 Ibid., pp. 219-222.
30 Ibid., II, 334-337.
first part of the letter. 31 In addition Japan would have been accorded the proper respect and consideration "... ordinarily given by one nation to the self respect of another, which after all forms the basis of amicable international intercourse throughout the civilized world." 32 Even though the United States had ruled that the Japanese could not be naturalized citizens and despite the maltreatment that some Japanese had received at the hands of private United States citizens, the government could not offend the Japanese nation. It is, therefore, evident that Hughes listened and listened attentively to the wishes of the Japanese government.

Many of the nation's newspapers except the extreme California press agreed with Hughes's proposal or, at least, thought it merited careful consideration by the Immigration Committee. 33 But the House Committee members at least did not share this opinion. This, it should be noted, was quite logical when one scans the membership list of the Committee. The chairman of the Committee was Rep. Albert Johnson (Washington) who was assisted by John Raker and Arthur Free, both of California. The trio were "... three of the most pronounced Japanese exclusionists and general immigration restrictionists in Congress." 34 The last members were John Box (Texas) and J. Will Taylor (Tennessee), "...
whose views were as firm as those of the Pacific Coast." 35 But when reading about the pitched battles that followed in Congress, one must keep in mind that Hughes and the Committee differed only on the method of limiting Japanese immigration, not on the principle that they should be restricted.

As the House and Senate Committees reworked the proposed bill, Hughes was very busy behind the scenes with the Japanese Ambassador. In a published memorandum of a conversation with Mr. Hanihara on March 27, 1924, the Secretary noted that Hanihara was not particularly disturbed over the Immigration Committee's report to the House on March 24, 1924. 36 The Ambassador knew that the bill was not in its final form; but he would keep his government informed of the proceedings. He did wish, however, to clear up several charges. 37

Secretary Hughes himself showed disquiet over two points in the House Committee's report, the first of which hit at the secret nature of the Gentleman's Agreement, while the second criticized the Agreement for not achieving the desired results. Hughes, therefore, informed the Ambassador that both of these points merited their careful attention; but he felt that Japan was in a better position to make a rejoinder, because she was the butt of the

35 Ibid. The author also notes the lack of uniformity on the Senate Committee which included: Hiram Johnson (California), Le Baron Colt (Rhode Island), David Reed (Pennsylvania), William King (Utah), Thomas Sterling (South Dakota), John Shields (Tennessee), William Harris (Georgia), and Pat Harrison (Mississippi), Ibid., pp. 34-35.

36 Foreign Relations, 1924, II, 337-338.

37 Ibid., p. 337. The Department of Labor said it did not possess a copy of the Gentleman's Agreement and charged Japan with discrimination against the Chinese and Koreans.
charge about violating the Agreement. Furthermore, he realized that it would be difficult to dispel the aura of secrecy that enshrouded the Agreement, since it was contained in voluminous correspondence which, if published, would obfuscate rather than clarify the issue.  

The Secretary ventured, therefore, to suggest that Hanihara write him a letter stating Japan's understanding of the Agreement and the measures she had adopted to insure its good results. The two countries would then be in a position to summarize the Gentlemen's Agreement in a formal way from the mountain of letters in their files. Hughes noted in the memorandum that Hanihara seemed inclined to the proposal; but naturally he would have to consult the wishes of his government. At any rate Hughes had attempted to vitiate the charge that so many Congressman had made about the secret nature of the Gentlemen's Agreement. With a concerted effort on the part of Japan and the United States the gist of it could be put before Congress and the American people if necessary. If this were accomplished, at least one plank in the House report would have been uprooted so that Hughes's own plan would have been more readily acceptable.

Hughes countered the second charge with the suggestion that Japan state the means she used to achieve the purpose of the Agreement. This was in reality a proper plan; but it constituted an open admission that Japan, not the

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38 Ibid., pp. 337-338.
39 Ibid., p. 338.
40 Ibid.
United States, administered the Gentlemen's Agreement. Hughes thereby opened up himself and the Department for repeated attack by Congressman who, as we have seen, hammered away at this aspect of the Agreement. Yet there does not seem to have been any other alternative open to Hughes. The word of a foreign nation had to be heard, because that nation controlled the administration of the Gentlemen's Agreement. Whether Congress agreed with the measures Japan had employed could only be judged once it knew what she had done. If it did not agree, Congress could then suggest more stringent measures to Japan, who had previously informed the State Department of its willingness to enforce stricter regulations.

The immediate outcome of the Hughes recommendation was the fulfillment of his wishes. The substance of the Gentlemen's Agreement was gleaned from the official correspondence, a copy of which was presented to the Japanese Embassy on April 8, 1924. Hanihara then proceeded to write the fateful letter to Hughes on April 10, 1924, which, instead of influencing Congress to drop the exclusion clause, actually incited it to pass the bill quickly and decisively. The curious factor is that Hughes actually triggered the reversal in Congress, a thing that he sought so desperately to avoid. It was Hughes who communicated copies of the Japanese Ambassador's letter to the respective chairmen of the

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1 Congressional Record, 68th Cong., 1 Sess., pp. 6464-6465.
3 Ibid., pp. 339-369.
House and Senate Committees on Immigration. In addition he sent them a copy of his reply to the Ambassador, in which he endorsed and concurred with the Japanese interpretation of the Gentlemen's Agreement. Hence, Hughes made it quite clear to Congress that the messages embodied the views of the Japanese government and those of the State Department.

In the letter Ambassador Hanihara wasted no time in getting to the point, the nature of the Gentlemen's Agreement. The Japanese government reached "... an understanding with the United States Government by which the Japanese Government voluntarily undertook to adopt and enforce certain administrative measures designed to check the emigration to the United States of Japanese laborers." Japan had no intention of infringing upon a sovereign right of the United States to control immigration to her shores. Rather the Gentlemen's Agreement was eagerly desired by Japan to eliminate the possibility of discriminatory exclusion legislation which would have made the United States guilty of offending "... the natural pride of a friendly nation."

Japan, moreover, he asserted, had been most scrupulous and faithful in carrying out the provisions of the Agreement. In support of this he cited the immigration and emigration figures which showed an excess of only 8,681 of those

\[14\] Ibid., p. 37k.
\[15\] Ibid.
\[16\] Ibid., p. 370.
\[17\] Ibid.
admitted over those who departed during the entire fifteen-year period in which
the Gentlemen's Agreement had been functioning. He felt that this was con-
clusive proof of its effectiveness, since the figures included such groups as
merchants, students, tourists, and government officials, who were not really
bound by the Agreement. He then presented the formal summary of the
Gentlemen's Agreement which had been culled from the correspondence. Because
of its importance and clarity we feel that the summary should be printed here
in full.

(1) The Japanese Government will not issue passports good for
the Continental United States to laborers, skilled or unskilled,
except those previously domiciled in the United States, or parents,
wives, or children under twenty years of age of such persons. The
form of the passport is so designed as to omit no safeguard against
forgery, and its issuance is governed by various rules of detail in
order to prevent fraud.

The Japanese Government accepted the definition of 'laborer'
as given in the United States Executive Order of April 8, 1907.
(2) Passports are to be issued by a limited number of specially
authorized officials only, under close supervision of the Foreign
Office, which has the supreme control of the matter and is equipped
with the necessary staff for administration of it. These officials
shall make thorough investigation when application for passports is
made by students, merchants, tourists, or the like, to ascertain
whether the applicant is likely to become a laborer, and shall
enforce the requirement that such person shall either be supplied
with adequate means to insure the permanence of his status as such
or that security be given therefor. In case of any doubt as to whether
such applicant is or is not entitled to a passport, the matter shall
be referred to the Foreign Office for decision.

Passports to laborers previously domiciled in the United States
will be issued only upon production of certificate from Japanese
Consular Officers in the United States, and passports to the parents,
wives and children of such laborers will be issued only upon pro-
duction of such consular certificate and of duly certified copy of
official registry of members of such laborer's family in Japan.
Utmost circumspection is exercised to guard against fraud.

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Ibid., pp. 371-372.
(3) Issuance of passports to so-called "picture brides" has been stopped by the Japanese Government since March 1, 1920, although it had not been prohibited under the terms of the Gentlemen's Agreement.

(4) Monthly statistics covering incoming and outgoing Japanese are exchanged between the American and Japanese Governments.

(5) Although the Gentlemen's Agreement is not applicable to the Hawaiian Islands, measures restricting issuance of passports for the Islands are being enforced in substantially the same manner as those for the Continental United States.

(6) The Japanese Government are further exercising strict control over emigration of Japanese laborers to foreign territories contiguous to the United States in order to prevent surreptitious entry into the United States.49

In closing the letter Hanihara again drew Hughes's attention to the unnecessary wound to Japanese pride and sensibility that would result from the passage of the legislation. In his mind the Executive branch at least would be guilty of a seeming breach of good faith, if it allowed the bill to pass.50

The final paragraph, however, was the incendiary spark that exploded the Senate chamber. It read:

Relying upon the confidence you have been so good enough to show me at all times, I have stated or rather repeated all this to you very candidly and in a most friendly spirit, for I realize, as I believe you do, the grave consequences which the enactment of the measure retaining that particular provision would inevitably bring upon the otherwise happy and mutually advantageous relations between our two countries.51

Senator Henry Cabot Lodge read the letter to the assembled senators on April 11, three days after Hughes had sent it to the Committee chairman.

49 Ibid., pp. 370-371.
50 Ibid., p. 373.
51 Ibid.
Within minutes he united a divided Senate by labelling the letter as improper, because the words grave consequences constituted a "veiled threat." Despite minor criticism Lodge's interpretation prevailed in the Senate. There followed the stampede to reject a Committee amendment to the Johnson bill, which would have combined the Gentlemen's Agreement with a very rigid quota system. 

Senators who had originally intended to vote in favor of the amendment swung to the other side in the light of what Lodge had pointed out to them. So it was that Senator Reed felt compelled to cast his vote in favor of absolute exclusion. He confessed the inevitable loss in terms of diplomacy and cordial relations with Japan; but her action left no other alternative. Yet he admitted that he voted for exclusion with a sad heart.

Senator Pepper justified the immediate passage of the exclusion clause on the ground that Japan, not America, had abrogated the Gentlemen's Agreement by its threat to pressure the United States on a domestic policy. Senator Shortridge labelled Hanihara's letter as specious and verbose. And so one by one the senators fell in line behind the banner of Lodge.

52 Congressional Record, 68th Cong., 1 Sess., p. 6305.
53 Ibid., for Lodge's rebuttal when challenged by Sen. Moses.
54 The vote for rejection was 71 to 4 with 21 not voting. Ibid., p. 6460.
55 Ibid., p. 6305.
56 Ibid., 6307.
57 Ibid., p. 6074.
Ambassador Hanihara, meanwhile, was utterly dismayed and confused by the Senate's interpretation of his letter. Naturally, he denied any hint of a threat. He went on to say, "I simply tried to emphasize the most unfortunate and deplorable effect upon our traditional friendship which might result from the adoption of a particular clause in the proposed measure. It would seriously impair the good and mutually helpful relationship and disturb the spirit of mutual regard and confidence, which characterizes our intercourse of the last three quarters of a century and which was considerably strengthened by the Washington Conference as well as by the most magnanimous sympathy shown by your people in the recent calamity in my country." Hence, in seeking to avoid what he considered grave consequences, the Ambassador incurred the gravest consequences for his country. His unfortunate use of the phrase grave consequences "... changed this letter from a normal protest to an international incident."

Hughes himself had no idea that the letter would be blantly misinterpreted. For he too could see no veiled threat in the Ambassador's letter, but "... only an innocuous expression of the regret that would be felt in the event of any impairment of the happy relations between the two countries." He expressed these sentiments to Hanihara on April 18 in an

58 Foreign Relations, 1921, II, 381.

59 Paul, p. 65.


61 Foreign Relations, 1921, II, 375.
attempt to preserve cordial relations. But the Secretary was truly in an awkward position. If the bill were passed, which seemed evident after the episode in the Senate, he would publicly have to uphold the action of Congress. This would not be an easy task, because his opposition to the bill was well known. In such a divided state he was confronted with the additional problem of preserving friendly relations with Japan. Thus angered at Congress and sympathetic to Japan, he did not see the course ahead as one without obstacles.

By constant contact with Ambassador Woods in Japan he kept abreast of both governmental and popular feeling in that country. In this country he saw the controversy played up in the press, as he witnessed the defeat of President Coolidge's proposal to put off the exclusion clause until March 1, 1925 in order that a suitable treaty could be worked out with Japan on the immigration problem. Hence, it was with a sad heart that he penned his true feelings to Ambassador Woods in Japan on May 11, 1924.

Congress, he said, apparently adopted the policy that it intended to assert complete legislative control over immigration. He further surmised that this policy might be consistent with allowing the United States to negotiate a reciprocal treaty with Japan to solve the immigration question. But he thought

62Ibid., p. 383.
63Ibid., pp. 383-385.
64Ibid., p. 388.
65Ibid., p. 390.
such a treaty would be the ultimate limit "to which the Executive could safely
go in adjusting or palliating the difficulty with Japan created by the enact-
ment of exclusion." In no sense would Congress allow an arrangement based on
the Morris-Shidehara agreement to be made.  

As the days progressed and the press, both American and Japanese,
continued to keep a keen eye on the Senate and House, Hughes judged that it was
but a matter of time before the bill was actually passed and sent to President
Coolidge. On May 15 the papers carried the fateful news of the passage. Only
the President's signature stood between it and actual law.

Coolidge himself was not without fears about the bill. Hence, he peti-
tioned Hughes for his comments on the legislation. In a letter dated May 3,
the Secretary expressed satisfaction with the administrative provision of the
bill since they "... have been framed in consultation with representatives of
the Department of State and largely embody the Department's recommendations." He also had no quarrel with Congress over the adoption of the census of 1890 as
the base for the quota. He had forwarded objections of foreign countries to
Congress on this aspect; but it had still retained the 1890 figure after careful

66 Ibid.

67 Ibid. The Morris-Shidehara agreement grew out of informal discussions
between the U. S. Ambassador to Japan and Baron Shidehara over the California
land law of 1920 which prohibited aliens ineligible to citizenship from owning
property. One proposal of the agreement would permit Japanese aliens to own
property just like other aliens. See Foreign Relations, 1921 (Washington,
1936), II, 321-349.

68 Ibid., p. 391.
consideration. Hence, Hughes did not care to urge the objection to this feature of the law any further. But with regard to the exclusion clause which, he reiterated, affected the Japanese especially, he had several grievances.

As a matter of policy he provided Coolidge with a brief summary of the immigration problem and the administrative measures employed up to that date to solve it. Hence, he touched on the nature of the Gentlemen's Agreement, the Reports of the Commissioner-General of Immigration, the restriction of "picture brides" in 1919, the application of the principles of the Gentlemen's Agreement to Hawaii, and finally the willingness of the Japanese government to modify the Agreement to suit our wishes.

In the remainder of the letter he restated his position on the plan to put Japan on the quota and the resentment which that country would surely feel if exclusion were enacted into law. All of these ideas, he noted, had been communicated to Congress and to the President in private conferences. He again lamented that the problem could have been settled by mutual agreements which would not have derogated in the slightest from the sovereign authority of the United States. In light of foreign relations and the attitude Japan had taken at the Washington Conference, the passage of the bill would prove to

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69 Ibid.
70 Ibid., pp. 391-393.
71 Ibid., pp. 391-392.
72 Ibid., p. 393.
73 Ibid.
be a misfortune. 74

But Hughes sympathized with the President's predicament. 75 The exclusion clause was but a part of a comprehensive immigration law. If it had stood alone, Hughes would have recommended its disapproval. But the President was obliged "... to consider the policy represented by the bill as a whole, ... and also the preponderant sentiment expressed in Congress." 76 Hence, Hughes concluded, "For this reason I return the bill without recommendation." 77

Yet Hughes did not diagnose the affair as completely hopeless. At the suggestion of the Japanese Ambassador he persuaded Coolidge to issue a statement to be published when the President signed the Immigration Act. 78 Such an explanation would be a final effort to convince the Japanese government and people of the Department's good will in the face of Congressional opposition. It would also clarify the position of the executive in American government. 79

The President's views were those already expressed by Hughes. 80 When Coolidge spoke of the bill as a whole, he regretted that he could not have

74 Ibid.
75 Ibid.
76 Ibid.
77 Ibid.
78 Ibid., p. 396.
79 Ibid., p. 394.
80 Compare the similarity of Coolidge's statement with the letter Hughes addressed to him, Ibid., pp. 391-393.
severed the exclusion clause from it. Yet he was quick to add that it meant no change in the cordial relations and traditional friendship that had existed between Japan and the United States. "The Bill rather expresses the determination of the Congress to exercise its prerogative in defining by legislation the control of immigration instead of leaving it to international agreements."

But Coolidge personally thought it would have been much better and more effective in controlling immigration to have cooperated with Japan who had so often shown willingness to do so. Such a procedure "... would not have derogated from the authority of the Congress to deal with the question in any exigency requiring its action." Everyone was in agreement that limitation was necessary. The point under fire was the method.

In a rather weak conclusion Coolidge defended his action by stressing the comprehensiveness of the bill as the main reason for signing the Act. The country as a whole earned his primary concern, because as he said, "It is of great importance that a comprehensive measure should take its place, and that the arrangements for its administration should be provided at once in order to avoid hardship and confusion." The need of the country was that the Quota

81 Ibid., p. 396.
82 Ibid.
83 Ibid.
84 Ibid.
85 Ibid.
Act of 1921 would expire on June 30, 1924. Without a new law immigration would have been more or less wide open. But to have presented as the principal motive for signing a bill, of which one disapproved, that a new law must succeed an expiring one, seems hardly worthy of a president of the United States. Does it not seem that expediency rather than justice ruled his thinking? Yet in all fairness to Coolidge we must admit that this interpretation is not the only one. That more commonly accepted is that he was caught in the dilemma of choosing between the good of a majority over that of a minority.

Yet we feel the other interpretation is also valid from the text of his letter. Therefore, at best his statement was poorly phrased; at the worst, he chose expediency over justice.

As might be expected the Japanese people were bitterly disappointed with Coolidge's action. Ignorant of the make-up of American government, they regarded him as their savior, because he had protested against the bill in its early stages. Hughes was also a disappointment to them largely for the same reasons. The Japanese government, however, took a more realistic attitude by issuing the formal protest against the Act which it had promised earlier in the event of its passage. Hughes used his answer to this protest as his final weapon to smooth the ruffled waters while not retrenching from his defense of the President.

86 Ibid., p. 397.

87 Japan Weekly Chronicle (Kobe), May 29, 1924, pp. 733-747.

He started with the practical effect of the exclusion clause rather than the principle underlying it. It should be noted that this was the exact opposite of his former statements on the case. Formerly, he insisted that numbers meant little. Now he pointed out that, when all the exceptions were taken into consideration, "... the provision in question does not differ greatly in its practical operation, or in the policy which it reflects, from the understanding embodied in the Gentlemen's Agreement ... ." 89

Hughes devoted most of his attention to the question of retaining or losing national sovereignty. Though immigration can be controlled by legislation or international agreements, the government decided that the United States was not limited to the latter. 90 Nor were any of its powers lost or impaired by the international agreements that had formerly been negotiated. The government, on the contrary, had always insisted in the midst of these agreements that she fully reserved these rights. But even though the executive might negotiate a treaty with a foreign power, the advisability of adopting it remained with the legislative branch. Hence, in the present situation, he said, Congress had enacted statutory exclusion which was mandatory on the executive branch and "... allows no latitude for the exercise of executive discretion as to the carrying out of the legislative will expressed in the statutes." 91 In other words, the legislature in this case held the winning

89 Ibid., pp. 404-405.
90 Ibid., p. 405.
91 Ibid., p. 407.
After officially declaring that Japan was released from the Gentlemen's Agreement, Hughes ended on the following note: "I desire once more to emphasize the appreciation on the part of this Government of the voluntary cooperation of your Government in carrying out the Gentlemen's Agreement and to express the conviction that the recognition of the right of each Government to legislate in control of immigration should not derogate in any degree from the mutual goodwill and cordial friendship which have always characterized the relations of the two countries." 92

It is curious to note that no specific mention is made in the entire letter of the affront to Japanese national pride. As will be remembered, this point headed the list of grievances against the act. Now once the Act had been passed, Hughes referred to it only in an indirect way when he expressed hope for continual good relations between the two powers. As an explanation we might say that, once the Act was passed, he was duty bound to uphold it despite his personal convictions. As a loyal Secretary of State he would support the policies and laws of the government. He would close ranks behind the decisions of the legislative branch as if they had been his own. There would be no room for contradictory opinions about laws that affected foreign governments. Here was no place for petty rivalry between branches of the government. A united front was the order of the day. As Secretary of State he had pledged to uphold the government. Now he had the opportunity which he did not pass by. This might also explain his insistence on the practical effects of the Act. By

92 Ibid., p. 408.
pointing to these, he found some good where Japan saw only evil.
CHAPTER V

CONCLUSION

From the vantage point on the edge of the "New Frontier," we ponder what conclusions we can draw from the study of the exclusion clause in the Immigration Act of 1924.

It can confidently be asserted that the exclusion clause stirred up a hornet's nest in public opinion both in Japan and in the United States. We feel that enough evidence for this has been provided in the foregoing pages so that further elaboration would be mere repetition of basically the same ideas. The more interesting aspect is just how much the Act threatened to disrupt friendly relations between the two countries.

At the outset we must recognize that to disrupt friendly relations can mean most anything from a cold war to an actual shooting one. In Japan the press talked of a shooting war, as we have seen. But the English language press, reflecting the views of the government, thought that war was a rather large assumption. The more responsible realized that Japan could not have engaged in war at the time, because she was still in the throes of recovery from the recent earthquakes. Furthermore, she had a weaker navy and lacked

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1 See especially the Japan Times and Mail (Tokyo) and the Japan weekly Chronicle (Kobe) for May-July, 1924.

2 Japan weekly Chronicle (Kobe), June 5, 1924, pp. 771-772.
those staples of war: oil, iron, and steel for production and rice for her people. Hence, even a cold or commercial war would have been a fatal move, since Japan needed industrial materials from the United States and capital, which also came from the States for purchasing Japan's exports, notably silk.\(^3\)

There is no doubt that she resented the affront to her national pride, coming as it did at a time when she had achieved world-wide recognition. But government officials did not consider war the remedy for the affront. In addition to the formal protest they did, according to their own admission, all in their power to curtail public demonstrations that could further incite anti-American feeling.\(^4\) Unstable political conditions at home were another influence on Japanese officials to ignore the talk of war.

No doubt too their action was inspired by the constant efforts of Hughes before and after the Act was passed to smooth the turbulent waters. They realized that Hughes had lost the battle with the Senate which insisted on asserting its prerogative, despite his outcry against the exclusion clause and the Senate's interpretation of Ambassador Hanihara's letter. But for this effort and for the statement he had Coolidge publish when the latter signed the bill, Japanese officials and citizenry were grateful.\(^5\) And through the work of the American press they were further made aware that the majority of Americans also deplored the way Congress behaved. Hence, the Immigration Act only threatened a break in friendly relations. At the time it did not disrupt friendship on the commercial or diplomatic levels.

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\(^3\)Ibid., p. 781.

\(^4\)Foreign Relations, 1924, II, 397.

\(^5\)Ibid., p. 410.
But in terms of the achievements at the Washington Conference the Act had more far reaching effects. Japan, Great Britain, France, and the United States were the recognized big powers at the Conference. The major achievements were seen in the adoption of several closely related treaties, dealing with insular possessions in the Pacific, armaments, and respect for sovereignty of China. Our passage, therefore, of the Immigration Act was a forceful slap at a major power, especially since it discriminated against the Japanese on a racial basis.

But more important, such a move played right into the hands of the militarists and imperialists in Japan, who were dissatisfied with her treatment at the Washington Conference. They advocated, therefore, more arm and more ships to protect Japan from another wanton insult by the United States. This appealing argument won favor in Japan.

Also, since America declared herself white man's territory, Asia would have to be for Asians. Thus exclusion legislation at once simplified Japan's foreign policy and removed its greatest danger, namely, that she might become alienated from her racial kindred in Asia. "Such an estrangement would have menaced her with the two-fold danger of enemies in the rear as she faced the Pacific, in time of war, and of eagerly welcomed Caucasian competitors as she faced the Continent, in time of peace. Now she is, by an action nowise attributable to herself, thrown back on an Asia solidified by racial indignation and finds forced upon her the hegemony of the yellow world." The fruits

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6 Mark J. McNeal, S.J., "Japan's Diplomatic Future," America, XXXI (June 14, 1924), 203.
of the movement, "Asia for the Asiatics," started to ripen in 1931, when Japan invaded Manchuria, and continued through the thirties to Pearl Harbor. Secretary Hughes diagnosed the effects of the Immigration Act with amazing accuracy when he wrote, "It is a sorry business and I am greatly depressed. It has undone the work of the Washington Conference and implanted the seeds of an antagonism which are sure to bear fruit in the future . . . . The question is not one of war but of the substitution of antagonism for cooperation in the Far East, with all that that involves. Our friends in the Senate have in a few minutes spoiled the work of years and done a lasting injury to our common country." 7

Hughes's letter suggests a final point, the awkward position in which he found himself. For months he had publicly opposed the Immigration Act. He had even proposed counter measures. But Congress, using Hanihara's letter as a pretext, overwhelmingly rejected the State Department recommendation. Hence, Hughes would have to uphold Congressional action before Japan. But he did more. He defended the new measure, as we have seen, but in a most diplomatic manner by avoiding the sore spot, the hurt to Japan's pride.

The entire episode, however, points up a larger issue, the real nature of the Secretary of State's position and of governmental setup in the United States. On matters of foreign policy the Secretary acts, strictly speaking, only in an advisory capacity to the President who is ultimately responsible for policy. But during Harding's and Coolidge's terms Hughes was the de facto

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7Letter to Judge Hiscock, April 24, 1924, in Pusey, II, 516.
policy maker. This made it doubly hard to witness Congress reject his immigra-
tion plan. Yet despite his personal feeling he acted as the Secretary of State of
the United States.

Yet Congress had every right to reject the plan, because the Constitution
gives it that right. Though foreign affairs are presidential responsibility,
Congress exerts its check on treaties, ambassadorial appointments, etc. This
situation makes the conduct of foreign affairs difficult and cumbersome at
times. In fact, "Perhaps in no country is this situation more evident than in
the United States." Therefore, that Hughes defended the law, which he
previously sought to avert is a credit not only to his character but also to
his loyalty and skill as a diplomat.

8 Graham Stuart, American Diplomatic and Consular Practice (New York,
1936), pp. 41-57.

9 Ibid., p. 41.
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The thesis submitted by Carl Edward Meirose, S.J. has been read and approved by three members of the Department of History.

The final copies have been examined by the director of the thesis and the signature which appears below verifies the fact that any necessary changes have been incorporated, and that the thesis is now given final approval with reference to content, form, and mechanical accuracy.

The thesis is therefore accepted in partial fulfillment of the requirements for the Degree of Master of Arts.

Date

Signature of Adviser