THE IMMIGRATION ACT OF 1924
AND
THE EXCLUSION OF THE JAPANESE

By

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The recent war has obscured much of the past relations between the United States and Japan. While the Manchurian crisis of 1931 and the overt action of Japan at Pearl Harbor remain fresh in the minds of many, other equally important aspects of the relations between the two nations have been forgotten.

The Immigration Act of 1924 carried a provision excluding "aliens ineligible to citizenship" from the shores of the United States. This clause, effectively aimed at the Japanese, proved to be a turning point in the relations of the two countries. Coming as it did on the heels of the successful Washington Naval Conference it worked to undo the settlement achieved there. It is the purpose of this paper to discuss the causes and events leading up to the enactment of the Immigration Act of 1924, the arguments for and against its enactment, and some of the consequences of its being placed on the statutes of this country.
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Chapter I

Japanese Immigration to 1920

The early history of Japanese immigration to the United States is neither clear nor of great importance. Emigration from Japan was forbidden between 1638 and 1868 and did not receive legal sanction until 1885. Records exist which indicate that a limited number of Japanese entered this country even during that period. Sailors, shipwrecked or stranded, and an occasional student form the bulk of this earliest Japanese immigration. California newspapers of 1869 carry stories of an attempt to establish the silk industry in the United States with the aid of Japanese workers. The venture failed and with it the first attempt at organized immigration of the Japanese into the United States came to an end. 1


The census of 1870 reported only 55 Japanese residing in this country, a number which increased to 148 by 1880. By 1890, because of the impetus given to immigration by the legalization of emigration from Japan and the enactment of a Chinese Exclusion Act in 1882, the number of Japanese increased to 2,038. The demands of the commercial and industrial groups for cheap labor to replace the excluded Chinese were particularly noticeable. From this point on the number of Japanese entering the United States increased
steadily. The following table indicates the number of Japanese entering through the ports of the United States excluding those coming from Hawaii.  

<table>
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<td>1910</td>
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Direct immigration has always been augmented by a flow from two sources, from Hawaii and from contiguous territory, Mexico and Canada. Large numbers of Japanese who went to Hawaii to work on the sugar plantations later migrated to the mainland of the United States to seek higher wages and wider opportunity. Between January 1st 1902 and September 30, 1905, 19,758 Japanese are listed as having entered the United States from Hawaii.  

Ibid.
As to the third source of Japanese immigration, that from territory contiguous to the United States, the Immigration Commission gives no statistics for Canada but notes that "as is the case of other races, there is no doubt that a fairly large number have come across the border." More definite information is given concerning Mexico. Inspector Braun was detailed in 1906 and 1907 to investigate the influx of immigrants from Mexico. He reported that within two years more than 10,000 Japanese had entered Mexico as contract laborers but that at the end of that period only about one thousand remained. Since they did not leave through the ports of Mexico and the area south is even more inhospitable than Mexico, it was presumed that they had entered the United States.

The problems which arose regarding Japanese immigration resulted, in part, from the increased numbers entering after the turn of the century. But there were deeper reasons based on economic competition and theories of social and cultural unassimibility. The character of Japanese immigration indicates the origin of these points of contention.

Japanese immigration followed the same pattern established whenever peoples move in considerable numbers. Im-
proved means of communication made it possible and the desire for economic betterment motivated it. Japan, it must be remembered, had a population density exceeded only by Great Britain, Holland and Belgium. At the same time Japan was a predominantly agricultural country with a limited amount of arable land. Where industries appeared, the wages were low. The combinations of these factors naturally encouraged the more progressive among the Japanese to seek their fortunes elsewhere.⁶

⁶Ibid., 9.

The need for cheap labor after the exclusion of the Chinese in 1882 provided the direct encouragement for the coming of the Japanese. They were welcomed as section hands on the railroads, as laborers in the sugar beet fields, and in practically all agricultural pursuits. The pleasant climate of California made that state the center of Japanese immigration.⁷ The new immigrants were aided in their coming by contractors and shipping companies. These organizations, usually working in close collaboration, took charge of all affairs of the immigrant from obtaining passports to the guaranteeing of jobs on arrival. The extent to which immigration companies controlled the movement of the Japanese to this country can be judged from the statement of the Im-

⁷Ibid., 13.
migration Commission that "little of the immigration to this country except of students has been independent of the emigration company; usually the first employment in this country has been under the Japanese contractor."  

6Ibid., 12.

The great majority of the Japanese coming to this country were young males. Of a group of 11,585 Japanese males entering, the Immigration Commission found that 48.1% were under 25 years of age; 21% were between 25 and 30 years old and only 30.9% were over 30 years old. It was not the custom for wives to accompany husbands. Many Japanese considered their stay in this country as temporary. It was their aim to remain until such a time when they had so improved their economic position as to enable them to return to the mother country in a better condition than when they had left it. Those who were successful later sent for their wives, but the great majority never attained that degree of prosperity.  

9Ibid., 7; 22.

circumstances later militated for the entry of large numbers of Japanese women. It was this influx which was seized by the exclusionists as their strongest argument that the Gentlemen's Agreement was not functioning.

Settlement in the new world by the Japanese followed
the same pattern as that of Europeans on the east coast. They formed their own little colonies whether in the city or in the country. But in addition to the isolation, fostered either by the desire for protection or the nativism of the Americans, the Japanese labored under a further disability, that of color. In many respects the Japanese were heir to the ill feeling and the tradition of opposition which had grown up with the Chinese.10 The ironic situation con-


fronted the Japanese, as other immigrants, of being driven into isolated groups and at the same time being accused of unassimilability.

Other factors complicated the situation. The Japanese have been concentrated on the west coast, primarily in the three states of California, Washington and Wyoming. However, the percentage of the total population, even in California which had 65% of all the Japanese in the country, never exceeded two per cent. Entering as they did through a few selected ports the Japanese created a problem all out of proportion to their numbers. The so-called Japanese menace, the fear that the Japanese were threatening to inundate the white population of the west coast, never existed in reality. Yet the concentration of the Japanese in so restricted an area provided adequate grounds for those seeking their exclusion.11 Then too, the fact that the Japanese tended to
drift into agriculture brought them into conflict with another group. Unlike the Chinese they were unwilling to remain as hired laborers and sought to lease and eventually own land. Through natural aptitude or exceptional effort the Japanese often achieved local monopolies in agriculture and thus arouse the ire of the white landowners.\textsuperscript{12} Besides

\textsuperscript{12}Henry W. Taft, \textit{Japan and America}, 135.

gaining the ill will of the nativists and the farm elements of the West Coast, the Japanese soon came into conflict with another group. They were used in industry to combat the rising tide of unionism. The Dillingham Commission found that in numerous cases the Japanese had been used as strike breakers. Thus the enmity of labor was added to the already heavy opposition to the Japanese in this country.\textsuperscript{13}

\textsuperscript{13}Senate Doc. 633, 23:57.

Open opposition to the Japanese became noticeable at the turn of the century. At a mass meeting of labor unions in San Francisco in 1900, held to urge the reenactment of Chinese Exclusion, the question of Japanese undesirability was also mentioned. The reason for the start of anti-Japanese agitation is not hard to find. It was in 1900 that the greatest influx of Japanese into this country took place.
That year also marked the start of an open shop drive by employers to block the rising tide of unionism. The coincidence of these two factors led the labor leaders to cry out against the Japanese as competitors of American labor. Here then is the basis for the first round of opposition to the Japanese — the fear of cheap labor. Cries of social unassimilability were heard but not seriously considered at this time. By 1905 several groups had combined to form


the Japanese and Korean Exclusion League. The American Federation of Labor, the State Grange, and such groups as the Native Sons of the Golden West were prominent members of the organization. Popular interest, however, did not develop until the action of the San Francisco School Board in 1906 ordering Japanese pupils to attend the Oriental School previously reserved for the Chinese. Various reasons were given for this action, but there was little doubt that it was a reflection of the desire of the west coast to start the process toward eventual exclusion of the Japanese.15

15 Ibid.

Japanese protests at the action of a local school board, involving only 93 children, precipitated an international incident of the first water. The action of the San Francisco officials came at a patently inopportune time. Only a few
months earlier the Japanese Red Cross had contributed a sum greater than that of all the world toward alleviating the suffering of the victims of the great San Francisco earthquake in 1906. It seemed to the Japanese that they had offered their hand in friendship and received instead a blow on the cheek. Popular criticism of the action of the California officials was widespread. President Roosevelt instructed the Secretary of Commerce and Labor, Victor H. Metcalf, himself a Californian, to visit San Francisco for a conference with the city officials. Following Metcalf's report the President invited the Mayor of San Francisco to Washington for a conference. Realizing as he later stated, that the problem was one of immigration and not of the attendance of school children, Roosevelt was able to reach an agreement with the San Francisco authorities. The objectionable measure was to be withdrawn in return for which the executive branch of the government would in a satisfactory manner care for the needs of California, that is, in respect to the limitation of immigration and particularly of laborers.\(^\text{16}\)


The agreement which resulted was the Gentlemen’s Agreement. No document bearing this title exists. It was contained in a series of diplomatic correspondence between the governments of the United States and Japan. Thus far the State Department has seen fit to withhold much of the perti-
nent correspondence. The terms of the Agreement are known to us from the *Annual Report* of the Commissioner General of Immigration for the year 1908 which outlined the general scope of the agreement. Under it Japan agreed to issue passports for the United States only to non-laborers and certain excepted classes. Laborers visiting Japan, the wives, children and parents of domiciled laborers and laborers who had already acquired an interest in a farming enterprise in the United States were the special groups.\(^\text{17}\)


The Japanese of their own volition applied the terms of the agreement to Mexico, Canada and Hawaii thus blocking what might have been a serious loophole in the plan. On the other hand, the Japanese understood that so long as they maintained their part of the bargain, statutory exclusion would not be applied to them.\(^\text{18}\)

\(^\text{18}\) *Ichihashi, op. cit.*, 247.

The agreement had many good features. It placed the responsibility for the choice of the excepted classes on the Japanese. Officials of the Imperial Government with adequate information were better able to perform this function than officials of this country at the ports of entry. Then, too,
the agreement gave the United States the voluntary cooperation of Japan in keeping her nationals out of contiguous territory whence they might move with ease into the United States. To a country with borders of such size as the United States possesses this was not an inconsiderable advantage. On the other side of the ledger several difficulties are to be noted. The agreement was made by the executive branch of the government and its terms were secret. These considerations boded ill for the day when legislative supremacy in the government would again be asserted. The agreement also gave Japan practical control over the choice of immigrants to this country, a surrender of the sovereign rights of the nation which was to prove unpalatable in the future. But above all the Gentlemen's Agreement confused the issue of the immigration of laborers with the total problem of Japanese on the West Coast. What the Californians wanted was the exclusion of all Japanese which would limit the number present in their midst. What they received was the exclusion of only one group of immigrants, laborers.\textsuperscript{19} The result was a feeling by the

\footnotesize{\textsuperscript{19}Paul, \textit{op. cit.}, 9-10.}

Californians that they had been cheated, that the Gentlemen's Agreement was being evaded and broken. Yet there has never been any proof that the agreement, standing as it did for the exclusion of Japanese laborers, was ever violated by the Japanese.\textsuperscript{20}
The defects mentioned should indicate that the problem of the Japanese on the west coast did not end with the Gentlemen's Agreement, nor was the solution brought any nearer by the revision of the treaty of 1894 with Japan in 1911.

The earlier treaty had contained a clause stating that the terms of the treaty were not to preclude legislation in certain fields, one of which was immigration. The omission of such a clause in the treaty of 1911 was seized upon by the Japanese as evidence that the United States not only impliedly recognized the Gentlemen's Agreement but also gave up the right to enact statutory exclusion. Neither of these arguments could stand legal scrutiny but provided grounds for vociferous agitation.

Two aspects of any problem involving aliens must be considered. One has to do with the admittance of aliens to our shores; the other with their treatment after arrival. On the first point there has been a varying attitude of the federal government. On the second it has been the unalterable policy of the government of the United States to accord visitors to this country not only the rights they deserve by virtue of a treaty but also the protection of the Constitu-
tion of the United States. The paths of these two considerations have invariably crossed in the stress of events. Thus when the attempt to reduce the Japanese population on the west coast via the Gentlemen's Agreement failed, the Californians turned to the other course, that of discrimination against aliens residing there. They turned to legislation aimed at discouraging those present, to denying them equal rights and placing them at a disadvantage, so that in the end they might achieve what the Gentlemen's Agreement had failed to do, to reduce the Japanese population. 21


The groups excepted from the Gentlemen's Agreement became the main source of immigration in the period following 1907. Of these groups the most significant was the one made up of "wives, children and parents of resident aliens." Particular use was made by the Japanese of the custom of marriages arranged through the exchange of photographs, with a ceremony conducted without the presence of the bridegroom. The wife then became eligible for a passport to the United States as the bona fide spouse of a resident alien. It should be noted that the custom was one of long standing in Japan and perfectly legitimate in the eyes of the Japanese. In no sense was it a contrivance to circumvent the Gentlemen's Agreement. The character of the Japanese population in this country, largely male and under thirty years of age,
based on solid precedent. It is the right of every nation to grant or deny aliens certain privileges considering, of course, treaty rights. The important change noticeable in the land law of 1913 is the adoption of "ineligibility to citizenship" as the criterion for the denial of the privilege of land owning. By omitting direct reference to the Japanese and making the Federal naturalization law the basis for discrimination it was hoped to place the odium on the federal government. The measure received support from almost all groups on the coast though it owed its adoption more to the unwillingness of any politician to oppose measures which restricted the privileges of Orientals.24

24Treat, op. cit., 230.

Protests from the Imperial Government of Japan followed. President Wilson renewed his pleas for a sane policy in regard to the Japanese but his words were of no avail. Eventually the storm quieted in the excitement surrounding the coming of the World War, though not before emphasizing another essential difficulty in Japanese-American relations. There was generally an insufficient appreciation of the dual character of our governmental structure, not only by the average Japanese, but even by officials of the Foreign office. Such misunderstanding made a solution to an already difficult problem even more trying.25

25Taft, op. cit., 140.
The attention of the country was diverted during the next six years almost exclusively to the World War. No new anti-Japanese measures were passed between 1913 and 1919. Serious students of the question felt that the Gentlemen's Agreement was functioning, that a satisfactory solution had been reached. It was hoped that in time agitation and misrepresentation would cease and that at that time resident Japanese could be judged on their merits.26

26 Treat. op. cit., 230.
CHAPTER II

Congress Enacts Statutory Exclusion

The ending of hostilities in 1918 marked the beginning of the second phase of the Japanese exclusion problem. Agitation for exclusion at this stage was but one part of the search for a homogeneous population after the passing of the frontier. With the free lands of the West gone it was felt that the United States could not go on indefinitely absorbing the surplus population of the world. This revulsion against all immigrants after the World War made the country as a whole ready to listen with something more than impatience to the outcries of the west coast for action against the "Japanese Menace". ¹


The chief emphasis of the exclusionists changed considerably at this time. The earlier economic considerations of competition with white labor and white living standards shifted to a cry that the Japanese were unassimilable. Oriental immigration was pointed out as "the" example of a peoples unable to merge into the population of a nation so as to become an integral part of it. Japanese customs, traditions, social and political attitudes were all scored as
pointing toward friction with the cultural pattern identified as American.\(^2\)

\(^2\)Ibid., 6.

In some respects the renewed agitation against the Japanese was a result of the international picture at the time. The Twenty-one Demands by which Japan had sought to make of China an economic protectorate to the exclusion of the Western Powers aroused the ire of the commercial interests in this country. The retention of troops in the Shantung and in Siberia after the abortive intervention in the Russian Revolution also acted to predispose American opinion against Japan. Thus the Japanese in this country paid for the sins of their government.

The rising tide of Japanese imperialism in the Far East also colored the scene. American interests in this area, faced for the first time with an all out competitor, began to cry out against the Japanese. Added to all these factors was the rising tide of hysteria characterized by newspaper and magazine articles and even books, all on the same theme, Must We Fight Japan, or The Coming War with Japan.\(^3\)

\(^3\)Taft, op. cit., 112-117.

The opening gun in the renewed struggle for the exclusion of the Japanese was fired in 1919. The immediate issue was a
purely political one. Senator James D. Phelan decided to base his campaign for reelection to the Senate on the thesis that he was the protector of things American against the invasion of the Japanese. Centering around his campaign an organized cry for restrictive legislation developed. But the legislature was in the hands of the Democrats, and rather than give the opposition credit for the enactment of such legislation, it refused to act. The demands were finally placed on the ballot through the initiative. As soon as this was accomplished all parties swung behind the measure, since opposition would have amounted to political suicide. The new land law made it practically impossible for aliens ineligible to citizenship to own land. They might still enter into crop contracts but even this loophole was plugged by a law in 1923. After that date, Japanese who did not own land previously could only work it legally as hired hands.4

4Treat, op. cit., 284.

The allegations made during the heat of the campaign point to the trends that future agitation would take. Three logical groups can be distinguished. The first emphasized the violation of the Gentlemen's Agreement by the Japanese through the use of such devices as the "picture brides" and through surreptitious entry from contiguous territory. With
this contention may be classified the claim that the Japanese birth rate so exceeded the white birth rate on the west coast as to threaten white supremacy. Both of the above claims are half-truths at best. As has already been pointed out the percentage of Japanese to the white population of California never exceeded two per cent. Yet the figures of the exclusionists painted a different picture. Even when correct they indicated a large annual influx of Japanese into this country. What they neglected to mention was the large number of Japanese departures at the same time. The concept of net immigration was never mentioned by those favoring the ousting of the Japanese. The annual reports of the Commissioner General of Immigration for the years 1908-1923 show that in the period 120,317 Japanese entered the United States. During the same period 111,636 departed leaving a net immigration figure for fifteen years of 8,681 or an annual immigration of 578. These figures include not only laborers but also students, merchants, and diplomats pointing again to the conclusion that the exclusionists were completely out of line in their fears of a Japanese invasion. That the leaders of the fight for Japanese exclusion were aware of the net immigration figure was shown in the Senate debates on the Immigration Act of 1924. Senator Samuel Shortridge, the Standard bearer of the exclusionists, was forced to

admit under questioning that the net gain of Japanese aliens during the years 1922-1923 was only 399. The other claim, 6

6Congressional Record, 68th Cong., 1st sess., 5203.

in regards the Japanese birth rate, was at least a partial truth. The Japanese birth rate, like that of all recently arrived immigrants, was higher than that of second and third generation Americans. The fact that so large a proportion of the Japanese population in this country was made up of young people made such an outcome only natural. However, authorities point out that the Japanese birth rate reached its peak in 1917 and then started on a steady decline which would place it in close proximity with the white rate within a decade or so. 7

7Treat, op. cit., 382-383.

The cry that the Japanese were unassimilable was another major argument of the exclusionists. The ironic feature of this contention was that it was the nativistic intolerance of the Americans which first drove the Japanese, as all immigrants, into tight settlements where they were then attacked as being clannish, holding on to ways and things foreign to the United States. Professor Treat points out the difficulty in judging the assimilability of the Japanese in the light of the lateness of their coming. Scarcely twenty years had elapsed since the first great influx of Japanese and that
period was hardly deemed sufficient to draw conclusions regarding assimilability. 8 Other claims often heard empha-

8 Ibid., 288.

sized the racial inferiority of the Japanese. They were labeled as undependable, tricky or given to breaking the law. Yet these contentions were little more than empty statements manufactured to fit the case. As a matter of record the Japanese immigrant compared very favorably with all other immigrants. 9 Other claims made in regard to the

9 Ibid., 278.

Japanese are interesting as indications of the extent to which truth was distorted by the exclusionists. V. S. McCutcheon, editor and owner of the Sacramento Bee and President of the Japanese and Korean Exclusion League, claimed in one of his speeches that during the year ending June 30, 1923, 9,678 Japanese had been found illegally in this country and deported. He quoted John Abercrombie, the Assistant Secretary of Labor as his authority. What Abercrombie actually said was this: in eleven years ending June 30, 1923, 4,000 aliens of all classes had been found in the United States and deported. Another favorite trick of McCutcheon was to quote his own editorials in support of statements made in speeches. 10 It would be safe then to conclude that

the allegations of the exclusionists were for the most part unjustified. At the very most, they provided an excuse for action based on a desire to exclude the Japanese.

A lull developed in the agitation for total exclusion of the Japanese during the early 1920's. Several factors influenced this change. The Japanese government stopped issuing passports to "picture brides" as of February 29, 1920, thus effectively blocking one of the chief arguments of the Exclusionists. The successful outcome of the


Washington Naval Conference also pointed toward more amicable relations between the two nations. As a result, the frantic naval race between the United States, Great Britain and Japan was halted, the Anglo-Japanese alliance terminated and the Open Door Policy given a new lease on life. Finally the aftermath of the destructive earthquake of 1923 which almost leveled Tokyo and Yokohama brought the mutual appreciation of the two nations to a new high. All of the United States responded with unexpected eagerness to aid the survivors. The Red Cross quota for the Pacific Coast was oversubscribed three times, furnishing a sum greater than that contributed by any other nation in the world.\[12\] It seemed

\[12\] Treat, op. cit., 263.

that a new era of good feeling was beginning and thoughtful
students of the question felt that if left alone the problem of the Japanese in the United States would work itself out without further trouble.

Such optimism was unwarranted. Prompted by fears of a flood of immigration following the termination of hostilities, Congress passed in 1921 a Quota Act. By its terms immigration was restricted to 3% of the nationals present in 1910.13 The Japanese were deemed covered by a special agree-


ment and therefore not subject to the terms of the law. The expiration of the law in 1924 necessitated the enactment of a new statute. It was around this event that Japanese exclusion was to revolve.

The basis had been well laid. The alien land laws of California had introduced the principle of denying certain privileges to aliens incapable of naturalization. Such action had the advantage of establishing legislation against all Orientals on a basis consistent with our naturalization laws. The Ozawa Case14 had finally given legal sanction to


what had already been held for many years, the principle that the Japanese did not come under the term Caucasian and therefore were not eligible to become citizens.

Federal action on the immigration question on the lines
already mentioned was imminent. The California legislature had petitioned Congress to pass a federal exclusion law as early as 1921. Another plea was made in 1923. The first move in that direction was made on February 23, 1923, when a bill designed to secure the exclusion of aliens ineligible to citizenship was reported favorably by the House Committee on Immigration and Naturalization. Because of the rush of business in the closing month of the 67th Congress the bill was allowed to die a natural death.

The opening of the 68th Congress saw the introduction of a similar measure. A bill embodying the twin features of a quota system discriminating in favor of the so-called "Nordic Immigration" from Northern Europe and of exclusion of all aliens ineligible to citizenship was presented to the House Committee on Immigration and Naturalization on February 9, 1924.

The make-up of this committee destined to formulate the bill is of interest. Four members, including Chairman Albert Johnson, were representatives of the Pacific Coast. These members, all staunch exclusionists, were augmented by a group
of six representatives from the south, a section whose interests generally coincided with those of the west. Thus, as Representative Adolph Sabath of Illinois complained, only one type of bill could be expected of such a committee, one based on restriction of immigration along Nordic lines and the absolute exclusion of aliens ineligible to citizenship.\footnote{\textit{Ibid.}, 5662.}

18 The committee justified its action in both cases on the desire to encourage the formation of a homogeneous American population. Thus in the case of European immigration, those groups bearing a closer resemblance to the original groups in the United States were to be encouraged. The Japanese, since they were considered unassimilable, were to be totally excluded. No mention was made of economic motivation. The entire burden was placed on the need of creating a homogeneous population.\footnote{United States House of Representatives, \textit{Restriction of Immigration}, House Report 176, 68th Cong., 1st sess., part 1, \textit{17-18}.} The report based on these features was signed by all members of the committee except Representatives Sabath, Bacon and Dickinson. These men issued a minority report attacking the Nordic basis for the quota but did not mention the Japanese question.

Before the bill could be considered by the House, Secretary of State Charles Evans Hughes sent a letter to Chair-
man Albert Johnson pointing out several difficulties which would arise should the bill in the form reported by the committee become law. The committee report together with the letter of Secretary Hughes provide a basis for the discussion of the proposed bill. 20


The first contention of Secretary Hughes was that the bill as it stood would violate the treaty of 1911 with Japan.

Article I of that treaty stated in part: 21

The citizen or subjects of each of the high contracting parties shall have liberty to enter, travel and reside in the territories of the other to carry on trade, wholesale and retail, to own or lease and occupy houses, manufactories, warehouses and shops, to employ agents of their choice, to lease land for residential purposes and commercial purposes, and generally to do anything incident to or necessary for trade upon the same terms, as native citizens or subjects, submitting themselves to the laws and regulations there established.


The committee reconsidered the issue and decided to add a clause which it hoped would satisfy the demands of Secretary Hughes. This clause created an exempt class of aliens described as "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 naviga-
The committee hastened to point out that the above clause in no way affected the immigration features of the bill. It considered the treaty of 1911 as strictly a treaty of commerce and navigation. If it contained an immigration feature it did so improperly since the control of immigration was a prerogative of Congress. Placing it in a treaty did not abrogate the right of Congress to assert its rightful powers. It may be noted that the right of Congress to abrogate a treaty is based on solid precedent.\(^\text{23}\)


\(^{23}\) Ibid., 6-7. For discussion of the legality of congressional action see John Bassett Moore, *Digest of International Law*, V, 364-366.

The committee further stated that it did not consider the Gentlemen's Agreement as a treaty and in fact had been notified by the Department of State that no immigration treaties had been made since those with China of 1880 and 1894.\(^{24}\) But since the Secretary of State had seen fit to discuss not only the legality of the Gentlemen's Agreement but also its justice, the committee felt it proper to enter into detailed consideration of that agreement. Several important opinions were voiced by the committee. Besides finding that the Gentlemen's Agreement was not a treaty but merely
an executive agreement it also contended that the agreement gave to Japan the control over immigration to this country, a prerogative which belonged solely to Congress. The secrecy of the agreement was also attacked and given as justification for immediate abrogation. Finally the committee noted that the Gentlemen's Agreement had been a covenant between the federal government and the state of California to prevent an increase in the size of the Japanese population; that this compact had not been kept since the Japanese population had increased greatly. Under these circumstances the committee felt that the agreement could not stand but would have to be replaced. Here the committee fell into the

25 Ibid., 6-8.

same error as did the West Coast agitators in confusing the aim of the Gentlemen's Agreement to restrict the immigration of Japanese laborers with the larger problem of controlling the number of Japanese in this country. Behind this and all objections raised in Congress can be discerned the rising tide of Congressional jealousy desirous of repossessing its prerogatives over immigration. Thus the first attempt of Secretary Hughes met with limited success. However the Committee, constituted as it was, made it known that its actions would be guided by strict legality and not by considerations of international understanding or good will.

The second point of dispute mentioned by Secretary Hughes
was that the bill was aimed directly at the Japanese and that it would therefore be resented by them. He feared that the good work of the Washington Naval Conference would be wasted by such an action. Pointing out the fact that while the bill ostensibly was aimed at all Orientals in actuality it singled out the Japanese for discrimination, Hughes asked for a reconsideration. The Barred Zone Act of 1917 provided for the exclusion of all Asians save the Japanese thus making them the only possible targets for the ineligible-for-citizenship provisions of the new law. 26 The

26 Stat. L., 376.

parting point between the executive in the person of Secretary Hughes and Congress becomes evident at this point. Both desired to limit Japanese immigration but one stood on its legal right to do so while the other considered the question of outstanding international agreements and amicable diplomatic relations.

Another point brought out by Secretary Hughes was the lack of reason for the enactment of statutory exclusion. He indicated the result of placing Japan on a 2% quota as with the other nations. Not only would the number entering be limited to less than 250 but the United States would also have a double check on immigration, the quota and the Gentlemen's Agreement. At the same time, friendly relations between
the two nations would be maintained and the United States
would have the cooperation of the Japanese government in con-
trolling immigration to Canada and Mexico. To a nation with
borders such as possessed by the United States, cooperation
of this type would be of inestimable value. But the com-
mittee was not impressed. It argued that the application of
the quota to the Japanese would be impracticable; that it
would be inconceivable that any nation should permit the en-
trance of groups which could not become naturalized and must
therefore owe their allegiance to another government.

It was evident that the mold was set. The plan proposed
by Secretary Hughes would have preserved for Japan the prin-
ciple of immigration while according California and the West
Coast fairly complete protection. There was no divergence of
end, both sought to restrict the number of Japanese in the
country. The method, however, brought a split. Congress was
bent on asserting its right of control over immigration re-
gardless of international complications. Nor is it difficult
to understand the attitude of the legislature. A period of
executive ascendancy was passing and the conservative tenden-
cies of the post war era pointed to the reversion of the
balance between the executive and the legislative branches
of government. There was no argument over the number of Japanese that would enter under a quota. The question was purely legal: the right of exclusion by Congress. The Hughes plan was an attempt at compromise, but compromise with a vociferous opposition usually requires substantial and easily visible concessions, which were not evident in the plan of Secretary Hughes. Perhaps if the Japanese had come forward at this instant with an offer to revise the Gentlemen's Agreement, some compromise might have been arranged. When such an offer was finally made the die had already been cast and no good came of it.29


The bill containing the Nordic immigration feature and the exclusion of aliens ineligible to citizenship came up for debate in the House of Representatives on April 4, 1924. Representative Grant Hudson of Michigan delivered the keynote address which emphasized that the immigration bill was to be considered as a whole with the emphasis on "Nordic Immigration". Exclusion of the Japanese was not be treated separately but as an integral part of the immigration question.30

30 Congressional Record, 68th Cong., 1st sess., 5640-5641.

Representative James H. McLaflerty of California opened the drive for the consideration of Japanese exclusion. He attacked the peaceful penetration of the Pacific Coast by the
Japanese and pointed out the horrible consequences to the white race should Congress fail to enact an exclusion law.\textsuperscript{31}

\textsuperscript{31}\textit{Ibid.}, 5680-5681.

Perhaps the only show of opposition in the House to the barring of the Japs was made at this time. Representatives Stanley Kunz of Illinois and Fiorella La Guardia of New York questioned Mc Lafferty as to the basis of his contentions. Though this was by no means a direct attack on the exclusionists' cause the show of strength which followed indicated that it would be foolhardy to oppose any measure so widely supported. Representative Sabath, a staunch opponent of Nordic immigration immediately replied that the exclusion features of the bill had the unanimous support of the House Committee on Immigration and Naturalization. Representatives Walter F. Lineberger of California and J. J. Mc Swain of South Carolina backed up Mc Lafferty in his stand and opposition melted under this wide geographical backing.\textsuperscript{32}

\textsuperscript{32}\textit{Ibid.}, 5681.

The remainder of the debates followed the same pattern. Long harangues, more emotional than reasonable, pictured the dire need of stopping the Japanese menace. Support for the bill came from all sections of the country though the West and South were loudest in their acclaim. What opposition
that did appear came from industrial centers and was directed largely at the choosing of 1890 as the basis for the quota. It became apparent as the House debates drew to a close that the bill was assured passage, and that tied to the broader issue of immigration restriction was the sidelight of Japanese exclusion.\(^{33}\)

\(^{33}\) Paul, op. cit., 32.

The views of the administration were finally made known on April 12 when Representative Theodore Burton of Ohio, a prominent Republican, ex-Senator and ex-member of the Foreign Relations Committee, voiced his strong opposition to the method being applied to exclude the Japanese. He hoped that the Senate with its greater knowledge of foreign affairs would deal more wisely with the bill.\(^{34}\) The position of Representative Burton in the Republican party can be judged from the fact that he was chosen to deliver the keynote address at the Republican National Convention at Cleveland in 1924.

The vote in the House of Representatives was taken on the bill in its entirety. 323 votes were recorded in the affirmative and 71 in the negative.\(^{35}\) The opposition came

\(^{34}\) Congressional Record, 68th Cong., 1st sess., 6251.

\(^{35}\) Ibid., 6257.
largely from the industrial sections and as previously mentioned was probably aimed more at the Nordic features of the bill than at the Japanese question.36

36 Paul, op.cit., 33.

The circumstances which proved so advantageous to the supporters of Japanese exclusion in the House were not found in the Senate. The Senate Committee on Immigration and Naturalization had only one member from the Pacific Coast, Hiram Johnson of California, who was campaigning for nomination for the presidency and was therefore unavailable much of the time. The committee was left in the hands of Senator Labaron B. Colt of Rhode Island though the de facto leadership soon passed to Senator David Reed of Pennsylvania. Both Colt and Reed were strongly opposed to exclusion in the form advocated by the House. Then too, the exclusionists could not count on the sectional support they had received in the House. No coalition of the South and West appeared in the Senate, in fact, during the early debates some of the strongest opposition came from Southern and Western senators. The resulting report of the Senate committee was so vague and indefinite as to put the exclusionists in the position of having to fight their campaign actively rather than to defend a ready made situation as they had in the House. It was evident that the exclusion feature could not succeed simply by being tacked onto a general immigration bill but would face an uphill battle
all the way.\textsuperscript{37}

\textsuperscript{37}Ibid., 34-36.

Senator Colt reported the bill to the Senate on April 2. It was immediately evident that much remained to be done before the bill could be considered in workable shape. The bill was based on the maintenance of a quota system though the base year remained undetermined. It did not contain an exclusion clause but instead carried a tacit recognition of the Gentlemen's Agreement. A clause in the bill excluded from the definition of an immigrant "an alien entitled to enter the United States under the provisions of a treaty relating solely to immigration." Beyond these stipulations the Senate bill was indefinite. Senator Colt emphasized the unfinished character of the bill when he said of it: "that the committee were so much divided on many of the details of the bill that we all reserved the right to express our own opinions or to move for any amendments on the floor of the Senate."\textsuperscript{38}

\textsuperscript{38}Congressional Record, 68th Cong., 1st sess., 5412.

In the absence of Senator Hiram Johnson the burden of the exclusionists cause fell to Senator Shortridge, also of California. His opening speech on April 2 was a plea to exclude Orientals and thus put our immigration policy parallel with our century old naturalization policy. His speech con-
tained all the time worn phrases of the nativists' crusades ending with a plea on behalf of such organizations as the American Federation of Labor, the American Legion and the National Grange. 39

39 Ibid., 5416.

Senator Shortridge's opening speech was followed by an interesting question period during which the California Senator was forced to defend his policies against searching queries from several Southern Senators, particularly Joseph T. Robinson of Arkansas and Kenneth McKellar of Tennessee. Normally the interests of the west coast and the south might be expected to coincide. The bitter animosity between the southern senators and Senator Shortridge suggests a force going beyond the normal sectional lineup. Perhaps the only logical explanation can be found in the fact that during the previous sessions of Congress, Senator Shortridge had been an ardent supporter of several anti-lynching bills. 40 That the opposition of McKellar and his southern cohorts was not directed at exclusion but at Shortridge seems to have been borne out by the sudden change of opinion manifested by the southern delegation once Senator Johnson returned to lead the battle in the Senate. 41 Rodman W. Paul, who has written
what is probably the best analysis of the struggle for the enactment of statutory exclusion hints at another reason for the sudden switch of the southern Senators. He points out that never again did Shortridge support anti-lynching legislation which would tend to lend credence to the belief that a deal had been made between the southerners and the exclusionists. The one group acquiesced in support of the barring of the Japanese from the United States in return for the other agreeing to refrain from future support of anti-lynching bills. 42

42Paul, op. cit., 53-56.

The situation in the Senate as of April 8 was defiantly hostile to exclusion. Senator Shortridge had been unable to muster support for his proposals from any quarter. Not only was the South opposed but the West was also strangely silent. It seemed that as far as the Senate was concerned exclusion was a lost cause. But within the next two days a series of events occurred which raised the question of exclusion to a major issue heatedly defended in the Senate. Oddly enough the crisis was precipitated by that branch of government most interested in avoiding exclusion.

As has already been mentioned the Senate version of the bill included a clause excepting aliens coming in
"under the provisions of a treaty". The State Department, however, was not satisfied but sought specific legal recognition of the Gentlemen's Agreement. This recognition had been granted in the Quota Act of 1921 which contained a clause excluding from the definition of the term immigrant "aliens from countries immigration from which is regulated in accordance with treaties or agreements relating solely to immigration." The State Department seems to have

felt it necessary to counterbalance the defeat it had suffered in the House by obtaining legal sanction for the Gentlemen's Agreement. However it seems that the State Department overstepped itself in this issue. When Senator Reed, at the insistence of the Department, introduced an amendment patterned after the clause in the Quota Act of 1921 he met with immediate hostility from several quarters. Senator Claude A. Swanson of Virginia asked if the terms of the Gentlemen's Agreement did not involve a surrender of sovereign rights on the part of the United States and whether the United States had not given up to Japan the right to control immigration to this country. The weakness of a secret agreement came to the fore when Senator Reed was forced to admit that he was unable to state definitely what the agree-
ment held. Further questioning by Senator Alva D. Adams of Colorado emphasized the surrender of Congressional prerogatives over matters involving immigration in the Gentlemen’s Agreement.45

45 Ibid.

Thus the attempts of the State Department to stabilize the situation by seeking recognition of the Gentlemen’s Agreement defeated itself. The latent jealousy of the legislative for the executive was aroused; the cry of secret agreements was brought out and the opposition to the surrender of national sovereignty was encouraged. If the State Department had been willing at the time to release the proper information regarding the Gentlemen’s Agreement the attempt might have been successful. Under the circumstances it would seem that a policy of silence would have been more appropriate.

The campaign of the exclusionists, given its start by the fracas over the Gentlemen’s Agreement on April 8 received new impetus on the following morning. Senator Johnson made his long awaited appearance on the Senate floor. The immediate support given Johnson’s opening speech by the southern Senators has already been described. The debate continued throughout the day with ever increasing emphasis on the secret nature of the Gentlemen’s Agreement, its usurpation
of congressional power and its danger to national sovereignty. In an attempt to clear up the confusion evident in the debate and to forestall the rising storm against Japanese immigration, the State Department decided to take an unprecedented step, one which was to prove the undoing of the Gentlemen's Agreement.

Diplomatic intervention in the immigration question centers around the famous Hanihara Letter. The Japanese government had remained vitally interested in the course of immigration legislation during the discussions in Congress. As early as January 15, 1924, the Imperial Government sent a memorandum to the State Department giving its views of the impending legislation.\(^46\) Close contact was maintained throughout the course of the bill in Congress. Finally when the action of the House indicated definite hostility toward Japan and the same attitude was rising in the Senate, the Japanese ambassador requested of the State Department a memorandum stating the interpretation of the Gentlemen's Agreement by the United States government. Such a memorandum was sent to the Japanese Ambassador on April 8, 1924.\(^47\) In return the Japanese Ambassador sent a letter to Secretary Hughes on April 10, giving the views of the Japanese govern-
ment on the disputed agreement. The letter was passed on

Ibid., 369-373. Appendix B contains the complete text of
the Hanihara letter.

by Secretary Hughes the same day to both the House and Senate
Committees and appeared in the Congressional Record April 11.
That the letter had the official sanction of the State De-
partment is evident from the fact that Secretary Hughes had
seen fit to pass the letter on without comment. On previous
occasions and under similar conditions when the State Depart-
ment had deemed communications improper it had not only with-
held them but requested revision by the dispatching govern-
ments.

The Hanihara Letter did not bring immediate action. It
was read in the Senate on April 11 but it is possible that
the cursory treatment at the hands of a Senate clerk allowed
its significance to escape that august body. However, on
April 14 the storm broke. Seizing on the concluding para-
graph as a "veiled threat" the Senate immediately turned
strongly for exclusion. Rational discussion ceased and any
doubts as to the outcome of the exclusion provisions vanished.
The pivotal nature of the alleged interference of the Japan-
ese government in the affairs of Congress required attention.

The content of Ambassador Hanihara's Letter of April 10
followed the general pattern of the protest delivered to the
State Department at the introduction of the immigration bill
in February. It carried a protest that the Gentlemen's Agreement would be violated by the enacting of statutory exclusion. The self imposed nature of the agreement was stressed and the hope of the Japanese government that as a result statutory exclusion would not be enacted was expressed. "The Japanese Government confidently trust that the United States Government will recommend if necessary to Congress to refrain from resorting to a measure that would seriously wound the proper susceptibilities of the Japanese Nation." The letter continued to describe in detail the manner in which Japan had carried out the Gentlemen's Agreement. It pointed out the fact that it had stopped issuing passports to the "picture brides"; had extended the agreement voluntarily to cover Mexico and Hawaii and was exchanging information and statistics with the American Government regarding Japanese immigration. The letter emphasized the Japanese position of not questioning the sovereign rights of any nation to regulate entrance into its territories and disclaimed the desire of the Japanese Government to send its nationals to any country where they were not welcome. Normally the letter might have closed with the customary diplomatic formalities but it concluded with the following phrase: "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." It was the words "grave
consequences" which were seized upon by the exclusionists termed a veiled threat and eventually used as the basis for the enactment of statutory exclusion and the abrogation of the Gentlemen's Agreement.

The issue of foreign intervention in the affairs of Congress might have been sufficient incentive for the enactment of a law barring the Japanese. But another factor entered the picture which made the course of the Senate even more certain. The Senate was occupied with a political event of enormous importance at almost the same time that the Maniura Letter was received. The Teapot Dome scandal had started a train of investigations into the irregularities of cabinet members. The investigations had reached to the very core of President Coolidge's cabinet with a scrutiny of the affairs of Secretary of the Treasury Mellon. It was no secret that the President was ill pleased with the behavior of his party in Congress. On April 12 he issued a warning to the Senate to stop prying into matters which were none of its business.49

49 New York Times, April 12, 1924.

The break was even more disturbing considering the fact that this was an election year and any break in party discipline could prove dangerous at the polls. The Republicans were faced with the situation of having practically an open break in their party on two issues, the question of Japanese exclusion and of the Senatorial investigation of the cabinet. In order to
reconcile if possible these divergent aims, Republican leaders called a party conference for Monday April 14. Republican leaders were faced with the reality that President Coolidge was stronger than his party in the country. His stand on the exclusion issue was driving the West Coast Republicans into a coalition with the Southern Democrats not only to oppose the immigration plans of the administration but also over the question of Senatorial investigations. Another consideration entering the picture was the candidacy of Hiram Johnson for the presidential nomination on the Republican ticket. While Johnson had already lost too heavily in the Mid-West to be a serious contender, the possibility still existed of a break with the regular Republicans should the latter follow the administration on the immigration question. Regular party Republicans saw only one solution to the problem. By opposing the administration's policy on immigration, they hoped to mollify the Pacific Coast delegation, squelch any movement toward a "Bull Moose" split on the west coast, and at the same time maintain support for the congressional investigations. Since the Democrats had already gone on record as favoring exclusion, such a stand could not be important at the polls. Thus it was hoped to retain party solidarity in an election year and at the same time maintain Congressional ascendancy over the executive. 50

50Paul, op. cit., 73-76.
Faced with this situation it was not difficult to foretell the outcome of the Republican conference on the 14th. When the Senate reconvened that afternoon, Senator Lodge requested an immediate executive session to consider the Japanese portion of the immigration bill. 51

51 Congressional Record, 68th Congress, 1st sess., 6302.

Senator Johnson opened the debate with a severe criticism of the Hanihara Letter and of its handling by the Secretary of State. He termed the letter impertinent and improper and attacked Hughes for not replying in kind. Senator Shortridge joined in with a passionate plea: "who is it that insolently and impertinently demands that we abdicate, that we surrender our sovereignty; that indeed we surrender our very independence of action as an independent nation?" 52 Senator Henry Cabot

52 Ibid., 6303.

Lodge then delivered the coup de grace. Speaking as the Chairman of the Committee on Foreign Relations his opinion was of great importance. He said: "I regret to say that the letter addressed to our State Department by the Ambassador from Japan seems to me improper to be addressed by the representative of one great country to another friendly country. It contains, I regret to say, a veiled threat." 53 Even the former support-

53 Ibid., 6305.
ers of the administration changed sides in the heat of the battle. Senator Reed offered the somewhat lame excuse that the Hanahara letter made the stand on the immigration question a matter of national prestige which left only one course open to him. The hysteria which swept over the Senate destroyed reason as a guide. A few Senators cried out against the storm but their voices were lost. Senator William H. King of Utah pleaded for delay in order to allow the State Department time to abrogate the Gentlemen's Agreement while Thomas R. Sterling of South Dakota argued against making "the letter of the Japanese ambassador the pretext for our action here today." Perhaps the best summary of the action of the Senate was given by Senator Tom Heflin of Alabama when he stated:

It is genuinely refreshing to see Republican leaders back off completely from the position taken by them on this question last week. The Senator from California was fighting on the other side against the Republican Jap deal almost single handed. The progressives were with us in the fight and the whole Democratic side stood for American rights in the matter. When Republican leaders discovered they were whipped, and whipped to a frazzle, they had a hurried conference, had it this morning, and now come in and say they take offense at something the Japanese Ambassador has written.

When a vote was taken it was on the question of agreeing
to the Committee amendment to recognize the Gentlemen's Agreement. Only Colt and Sterling voted in the affirmative as the agreement was abrogated by a vote of 76-2 with 18 not voting. 56

56 Ibid., 5315.

It remained for the Senate to replace the Gentlemen's Agreement with domestic legislation. This it did on the following day when a clause similar to the one included in the House bill, excluding aliens ineligible to citizenship, was adopted. The question was placed to a vote and 71 affirmative votes recorded against only 4 negative.

With the benefit of hindsight it appears indisputable that the action of Secretary Hughes in passing on the letter of the Ambassador, Hanihara, was a blunder. While it was true that the words "grave consequences" taken in context could hardly be construed as a threat, still the potential consequences of interference with Congress should have dictated a far more cautious policy. American history in the past presented sufficient examples of congressional reaction to outside interference. An awareness of the political atmosphere at the time should have indicated extreme care in dealing with the legislative branch of government. The stand of Secretary Hughes on the exclusion was far more laudable than that taken by Congress but he must bear at least part of the blame for the eventual outcome. However, one of the ideas which gained popular currency at the time of the immigration struggle has
since been disproved. It was widely held that Secretary Hughes had requested Hanihara to include the "grave consequences" phrase in the hope of frightening Congress into action. Writing of this claim later Hughes said his reply to such an assertion was: "I said that it was absurd, that there was no truth in it."\(^57\)

\(^57\) *Foreign Relations, 1924, II, 410.*

Recent investigations have tended to indicate that exclusion would have been enacted without the Hanihara Letter. A canvass of the Senate taken on April 8, two days before the receipt of the letter, showed 54 votes secured for the barring of the Japanese. The coincidence of Southern and Western votes after the attempt of Senator Reed to introduce his amendment seems to have assured passage of an exclusion bill without such an overt excuse as was provided by the Hanihara Letter.\(^58\)

\(^58\) *Paul, op. cit., 85.*

The attitude of President Coolidge under these difficult circumstances is of interest. His problem was to reconcile the effects of congressional action with harmonious international relations. He favored the restriction of immigration but not in the manner proposed by Congress. He was also faced with the problem of maintaining reasonable relations with Congress in order not to sabotage his entire legislative program. It was in his power to veto the immigration bill
containing the exclusion feature. But such action would have two disadvantages. First, it would have no parliamentary effect since the great majorities by which the bill was passed in both houses would simply mean overriding his veto. Secondly, a veto would widen the breach in his party and especially drive the West Coast delegation into the enemy camp. One other course remained open, to attempt to amend the bill in conference.

On May 2, the House conferees approached Senator McKellar with a proposal to qualify the "ineligible-to-citizenship" clause with this proviso:

Provided however that the provisions of this paragraph shall not apply to the nationals of those countries with which the United States, after the enactment of this act, shall have entered into treaties by and with the advice and consent of the Senate for the regulation of immigration.59

59 Congressional Record, 68th Cong., 1st sess., 7920.

This attempt brought an immediate outcry of presidential interference in congressional affairs. The outburst made any worthwhile effort impossible and nothing more was heard of it. On May 7 the President called the majority members of the conference committee together with Senator Lodge, to the White House, there to urge them to make an eleventh hour change. He proposed a provision which would have postponed the effective date of Japanese exclusion until March 1, 1925. By that time the President was to negotiate with the Japanese
Government for the abrogation of the Gentlemen's Agreement. 60

60 Ibid., 8231.

The conference report with the above stipulation was presented to Congress on May 9. It had the feature of saving the United States from the claim of covenant breaking no matter how informal the agreement may have been. Action in the House resulted in a vote of 192-171 to drop the postponement clause from the bill. Thus the final attempt of President Coolidge to head off exclusion in a form hardly compatible with our outstanding commitments ended. On May 26th, President Coolidge signed the bill with the protest that he regretted not being able to separate the Japanese exclusion features from the immigration law. "If the exclusion provisions stood alone," he said, "I should disapprove it without hesitation if sought in this way at this time." 61

61 Foreign Relations, 1924, II, 396.

Thus statutory exclusion became fact through "persistent agitation, inadvertently abetted by diplomatic ineptitude and culminating in Senatorial hysteria." 62

CHAPTER III

The Aftermath

The attitude of the country on the question of Japanese exclusion was constantly changing. Prior to the Hanihara Letter little excitement was generated except on the Pacific Coast. The publication of the letter provoked a wave of protest in practically every newspaper in the country. Apologists for the letter failed to consider this widespread feeling of indignation throughout the nation. The Atlanta Constitution, a conservative paper, said of the letter:

"Japan has thrown a serious challenge to the American Congress." The New York Herald Tribune labelled the letter a "bristling protest" and so went the story of practically every paper in the nation.¹ Once the first wave of emotional outburst abated a more rational opinion came to the fore. The sensational manner in which the Senate reached its decision was the topic of discussion for many days. The New York Times declared that the action of the Senate was "but another example of that legislative intemperance which has been so manifest in Washington in recent months."² The Boston Herald on the other hand de-

¹Eleanor Tupper and George McReynolds, Japan in American Public Opinion, 190-191.

²New York Times, April 15, 1924.
clared that "we think Senator Lodge absolutely right in de-
claring the letter improper." In general, the Pacific Coast
papers followed the lead of the Boston Herald while the more
conservative Midwest press took up the line of the New York
Times. Perhaps the matter was best summed up in the New
York Commercial when it said, "the country will back up the
Senate in its rebuke to the Japanese ambassador even though
it may feel that the entire question of Japanese immigration
has been bungled and given undue prominence."

The Japanese received word of the action of Congress in
a stunned silence. They had been led to believe that a small
quota was inevitable but total exclusion took them aback.
Some demonstrations, mainly by the extreme nationalistic
elements took place, but to the credit of the Imperial Gov-
erment no overt action was allowed. The ambassador of the
United States to Japan, C. E. Woods, reported to Secretary
Hughes that the Japanese were hurt by an action which they
did not understand.

The Japanese took issue with the actions of Congress on several points. They denied that it was the desire of Japan to send her immigrants to any country where they were not wanted. While recognizing the right of any nation to determine who should enter the country, they protested against discriminatory legislation. Singling out the Japanese for statutory exclusion at a time when that nation was gaining recognition as a world power was taken as an affront to the nation. This viewpoint was well expressed by Professor Tsurumi during a series of lectures delivered at Columbia University when he said:

7Yusuke Tsurumi, Present Day Japan, 103.

The recently abrogated Gentlemen's Agreement came in for its share of attention. The Japanese contended that if it was not a treaty at least it was a solemn international understanding. It was pointed out that the agreement had been in operation for sixteen years without serious complaint; that it had been tacitly recognized in the treaty of 1911, in the Barred Zone Act of 1917 and the Quota Act of 1917. All these factors indicated that if the agreement was to be set aside, some heed should have been paid to diplomatic
usages. When Chinese exclusion was enacted, they pointed out, conferences between the two parties preceded the action. Japan was not accorded even this courtesy, complained the Japanese.  

Prominent Japanese also voiced the opinion that the abrogation of the Gentlemen's Agreement was unnecessary, that the same result might have been obtained with much less furor and trouble. Baron Mitsui, speaking before the Imperial Diet, voiced this sentiment, saying: "It seems to us that we are appealing against action that can only wound us and can bring little satisfaction to you."  

American scholars for the most part agreed to this point of view. They felt that the Gentlemen's Agreement had been a more satisfactory way to meet Japanese exclusion than enacting a law which was bound to have international repercussions and which stood a good chance of being less effective than the agreement it replaced. Admission that exclusion might have been attained pleasantly as well as unpleasantly was made by Senator Reed on May 8, 1924 in a speech to the Senate.
in which he regretted the hasty action of which he had been a part. 11

11 Congressional Record, 68th Cong., 1st sess., 8091.

Several repercussions to the action of Congress were felt in Japan. The position of the liberal elements in Japanese life, striving for a synthesis of the East and West, was undermined. Their place was taken by the extreme nationalists more intent on building an Asiatic Japan opposed to the West than one working in friendship and cooperation with the Western nations. Japan turned her eyes toward Asia, there to seek her destiny. The results of twenty years of diplomacy aimed at preventing the rise of a hostile Japan were wasted in one futile act of Congress. Professor Tsurumi maintained that the train of action started here would eventually have "grave consequences" for both nations. Japan, he felt, was destined to become a great industrial and commercial nation. If she could not attain this position under friendly circumstances then the alternative was to proceed with ultimate conflict as the goal. 12


Finally the action of the United States had a profound effect on the thinking of the Japanese people. While the passage of the act did not mean that the Japanese were irrevocably opposed to the United States, it did
An explosive force has been lodged in the Japanese mind, an explosive force that those who seek ways of international peace and progressive democracy in Japan will have to reckon with for decades to come.... the grave consequences flow from the fact that it is now very difficult for any Japanese liberal to convince the conservatives and nationalists that the process by which the immigration bill was passed was not intended to serve notice on Japan that she need expect no more cooperation from America.

Care must be exercised not to distort the relative importance of the immigration question in Japanese-American relations. At no time was there any likelihood of war. No Japanese government would have allowed an immigration question involving a handful of subjects to jeopardize international relations. There were other reasons of greater importance which would sooner or later become grounds for contention. Eventually commercial rivalry in China would come to the fore regardless of the immigration question. The importance of this incident lies in the fact that it turned the Japanese from thoughts of peaceful cooperation in the settlement of disputes to a reliance on the strength of her arms for a solution. Ultimately the result of the exclusion features of the Immigration Act of 1924 was to strengthen the movement of Asia for the Asiatics, the fruits of which were
to be harvested in 1931. 14


The question of Japanese exclusion was never a simple one. Throughout it bore the mark of an essentially American piece of legislature though it involved international matters as well. The attempts of Secretary Hughes and Senators Reed and King to interpose international considerations were defeated largely because domestic issues appeared nearer and more important. The problem of the Southern vote in relation to the anti-lynching bills; the issue of Congressional prerogatives; the question of Senatorial investigations; the need for party solidarity and the need of the Pacific Coast vote in the election of 1924, all these determined the course of action taken by Congress. Congress chose to adopt a narrow legal view of its actions. In this respect it was correct though it is unfortunate that international considerations could not have received greater attention.

The years following 1924 witnessed a concerted effort to revise the Immigration Act of 1924 so as to bring the Japanese under a quota. Pressure from mercantile groups, from religious organizations and scholarly groups was widely felt. The Annual Report of the Secretary of Labor in 1930 suggested a quota system for all oriental immigration.
This was significant since the same James J. David who was the Secretary of Labor in 1924 as well, had been one of the group advocating total exclusion at that date. Favorable action along the lines mentioned was thwarted by the overt action of Japan in the Manchurian crisis of 1931. Little was accomplished until the present year, 1949, when a bill was introduced to place the Japanese on a quota. At the writing of this paper the bill is in committee.
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Appendix A


"It is apparent that section 12, subdivision (b) taken in connection with sections 3 and 4 of the proposed measure operate to exclude Japanese. This is inconsistent with 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.

So far as the latter class is concerned, the question is one of policy. There can be no question that such a statutory exclusion will be deeply resented by the Japanese people. It would be idle to insist that the provision is not aimed at the Japanese, for the proposed measure (sec.25) continues in force the existing legislation regulating Chinese immigration and the barred zone provisions of our immigration laws which prohibit immigration from certain other portions of Asia. The practical effect of section (12b) is to single out the Japanese immigrants for exclusion. The Japanese are a sensitive people, and unquestionably would regard such a legislative enactment as fixing a stigma upon them. I regret to be compelled to say that I believe that such legislative action would largely undo the work of the Washington Conference on the Limitations of Armaments, which so greatly improved our relations with Japan. The manifestation of American interest and generosity in providing relief to the sufferers from the recent earthquake disaster in Japan would not avail to diminish the resentment which would follow the enactment of such a measure, as this enactment would be regarded as an insult not to be palliated by any act of charity. It is useless to argue whether or not such a feeling would be justified; it is quite sufficient to say that it would exist. It has already been manifested in the discussions in Japan with respect to the pendency of the measure and no amount of argument can avail to remove it.

The question is thus presented whether it is worthwhile thus to affront a friendly nation with whom we have established most cordial relations and what gain there would be from such action. Permit me to suggest that the legislation would seem to be quite unnecessary, even for the purpose for which it was devised. It is to be noted that if the provisions of subdivision (b) of section (12) were eliminated and the quota provided in section (10) of the proposed measure were to be applied to Japan, there would be a total of only 296 Japanese immigrants entitled to enter under the quota as thus determined.

That is to say, this number would equal 2% of the number
of residents of the United States as determined by the census of 1890 plus 200. There would remain, of course, the non-quota immigrants but if it could be possibly regarded that the provisions of section (4) would enlarge the number admitted, these provisions could be modified without involving a statutory discrimination against the Japanese. We now have an understanding with the Japanese government whereby Japan undertakes to prevent the immigration of laborers from Japan to the United States except the parents, wives and children of those already resident here. Furthermore the Japanese government, incidently to this undertaking, now regulates immigration to territory contiguous to the United States with the object of preventing the departure from Japan of persons who are likely to obtain surreptitious entry into this country.

If the provision of section 12 (b) were to be deleted and the provision in regard to certificates for immigrants to this country were to become applicable, we should then with the present understanding with the Japanese government be in a position to obtain the active cooperation by the Japanese authorities in the grabbing of passports and immigration certificates. We would in addition be assured that the Japanese Government would give its assistance in scrutinizing and regulating immigration from Japan to American territory contiguous to the United States.

It is believed that such an arrangement, involving a double control over the Japanese quota of less than 250 a year would accomplish a much more effective regulation of unassimilable and undesirable classes of Japanese immigrants than it would be practicable for us, with our long frontier lines on both north and south to accomplish by attempting to establish a general bar against Japanese subjects to the loss of cooperation with the Japanese Government in controlling movement of their people to the United States and adjacent territories.

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 the subject.
Appendix B

Text of the letter of Ambassador Hanihara to Secretary of State Hughes, April 10, 1924. For. Rel., 1924, II, 368-373.

Washington, April 10, 1924.

Sir: In view of certain statements in the report of the House Committee on Immigration -- "Report No. 350, March 24, 1924" -- regarding the so-called "Gentlemen's Agreement", some of which appear to be misleading, I may be allowed to state to you the purpose and substance of that agreement as it is understood and performed by my government, which understanding and practice are, I believe, in accord with those of your Government on this subject.

The Gentlemen's Agreement is 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. It is in no way intended as a restriction on the sovereign rights of the United States to regulate its immigration. This is shown by the fact that the existing Immigration Act of 1917, for instance, is applied to Japanese as to other aliens.

It was because of the fact that discriminatory immigration legislation on the part of the United States would naturally wound the national susceptibilities of the Japanese people that, after thorough but most friendly and frank discussions between the two Governments the Gentlemen's Agreement was made for the purpose of relieving the United States from the possible unfortunate necessity of offending the natural pride of a friendly nation.

The Japanese Government have most scrupulously and faithfully carried out the terms of the Agreement, as a self-imposed restriction and are fully prepared to continue to do so, as officially announced at the time of the conclusion of the present Treaty of Commerce and Navigation between Japan and the United States. In return the Japanese Government confidently trust that the United States Government will recommend, if necessary, to the Congress to refrain from resorting to a measure that would seriously wound the proper susceptibilities of the Japanese nation.

One object of the Gentlemen's Agreement is, as is pointed out above, to stop the emigration to the United States of all Japanese laborers other than those excepted in the agreement, which is embodied in a series of long and detailed correspondence between the two governments, publication of which is not believed to serve any good purpose, but the essential terms and practice of which may be summed
up as follows:

(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 the 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 surety 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 production of such consular certificate and of duly certified copy of official registry of members of such laborers family in Japan. Utmost circumspection is exercised to guard against fraud.

(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 the 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 immigration of Japanese laborers to foreign territories contiguous to the United States in order to prevent surreptitious entry into the United States.
A more condensed substance of these terms is published in the Annual Report of the United States Commissioner General of Immigration for 1908, 1909 and 1910 on pages 125-126, and 124-125 respectively.

As I stated above, the Japanese Government have been most faithfully observing the Gentlemen’s Agreement in every detail of its terms which fact is, I believe, well known to the United States Government. I may be permitted, in this connection, to call your attention to the official figures in the Annual Reports of the United States Commissioner General of Immigration showing the increase or decrease of Japanese population in the Continental United States by immigration and emigration. According to these reports in the years 1908-1923 the total number of Japanese admitted to and departed from the Continental United States were respectively 120,317 and 111,636. In other words the excess of those admitted over those departed was in fifteen years only 8,681, that is to say the annual average of 578. It is important to note that in these 8,681 are included not only those who are covered by the terms of the Gentlemen’s Agreement, but all other classes of Japanese such as merchants, students, tourists, government officials, etc.

These figures collected by the United States Immigration authorities seem to me to show conclusively the successful operation of the Gentlemen’s Agreement. Besides this there is, of course, the increase through birth of the Japanese population in the United States. This has nothing to do either with the Gentlemen’s Agreement or the Immigration laws.

I may add in this connection that if the proposition were whether it would not be desirable to amend or modify some of the terms of the Agreement, the question would be different, and I personally believe that my government would not be unwilling to discuss the matter with your government, if such were its wishes.

Further, if I may speak frankly, at the risk of repeating what under instructions from my government, I have represented to you on former occasions, the mere fact that a certain clause, obviously aimed against Japanese as a nation, is introduced in the proposed immigration bill, in apparent disregard of the most sincere and friendly endeavors on the part of the Japanese Government to meet the need of the American Government and people, is mortifying enough to the Government and people of Japan. They are, however, exercising the utmost forbearance at this moment, and in so doing confidently rely upon the high sense of justice and fair play of the American Government and its people, which, when properly approached, will readily understand why no such discriminatory provision as above referred should be allowed to become a part of the law of the land.

It is needless to add that it is not the intention of the Japanese Government to question the sovereign right of any country to regulate immigration to its own territory. Nor is
it their desire to send their nationals to the countries where they are not wanted. On the contrary the Japanese Government showed from the very beginning of this problem their perfect willingness to cooperate with the United States Government to effectively prevent by all honorable means the entrance into the United States of such Japanese nationals as are not desired by the United States, and have given ample evidence thereof, the facts of which are well known to your Government. To Japan the question is not one of expediency but of principle. To her the mere fact that a few hundreds or thousands of her nationals will or will not be admitted into the domains of other countries is immaterial, so long as no question of national susceptibilities is involved. The important question is whether Japan as a nation is or is not entitled to the proper respect and consideration of other nations. In other words the Japanese government ask of the United States Government simply that proper 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.

It is indeed impossible for my Government and people, and I believe it would be impossible also for your government and those of your people who had made a careful study of the subject, to understand why it should be necessary for your country to enact as the law of the land such a clause as Section 12 (b) of the House Immigration bill.

As is justly pointed out in your letter of February 8, 1924, to the Chairman of the House Committee on Immigration, it is idle to insist that the provision is not aimed at the Japanese, for the proposed measure (Section 25) continues in force your existing legislation regulating Chinese immigration and the barred zone provisions of your immigration laws which prohibit immigration from certain other portions of Asia -- to say nothing about the public statements of the sponsors and supporters of that particular provision as to its aim. In other words the manifest object of the said Section 12 (b) is to single out the Japanese as a nation, stigmatizing them as unworthy and undesirable in the eyes of the American people. And yet the actual result of that particular provision, if proposed bill becomes law as intended, would be to exclude only 146 Japanese per year. On the other hand the Gentlemen's Agreement is, in fact, accomplishing all that can be accomplished by the proposed Japanese exclusion clause except for these 146. It is indeed difficult to believe that it can be the intention of the people of your great country, who always stand for high principles of justice and fair play in the intercourse of nations, to resort -- in order to secure the annual exclusion of 146 Japanese -- to a measure which would not only seriously offend the just price of a friendly nation, that has always been earnest and diligent in its efforts to preserve the friendship of your people, but would involve the question
of good faith and therefore the honor of their Government, or at least of its executive branch.

Relying upon the confidence you have been 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.

M. Hanihara