In witness whereof, the respective Plenipotentiaries have signed this Convention in duplicate and have hereunto affixed their seals.

Done at Washington .....

附屬書第六十三號　「ディリンガム」法案S.(383)及「バーネット」法案(H.R. 558)ニ關スル在米大使口上書

RE: DILLINGHAM BILL, S. 383, AND BURNETT BILL, H.R. 558.

S. 383:—

Sec. 3—page 6, line 24—page 7, line 4.

H.R. 558:—

Sec. 3—page 6, line 22—page 7, line 2.

(That the following classes of aliens shall be excluded from admission into the United States:) "persons who can not become eligible, under existing law, to become citizens of the United States by naturalization, unless otherwise provided for by existing treaties, conventions, or agreements as to passports, or by treaties, conventions, or agreements that may hereafter be entered into."

The wording of the exception clause underscored leaves room for mistaking the words "as to passports" as modifying not only the word "agreements", but the words "treaties" and "conventions" as well, and thus defeating the true purport of the clause, intended by the framers of the bill. That such fear is not wholly unwarranted will be made clear upon

a perusal of an excerpt (hereto attached) from the Congressional Record, 63rd Congress, 3rd Session, Vol. 52, No. 31, page 1697, January 15, 1915, to which I had at the time occasion to call the attention of Mr. Bryan, then Secretary of State. The following amendment is therefore suggested:

To change the words "agreements as to passports" to "passport agreements", so that the exception clause would read,

"unless otherwise provided for by existing treaties, conventions, or passport agreement.

(Signed) S. Chinda.

29th January, 1916.

Excerpt from Congressional Record, 63rd Congress, 3rd Session, Vol. 52, No. 31, page 1697, Friday, January 15, 1915.

Mr. MOORE. I notice there has been a change in amendment 17 in reference to treaties, conventions, and agreements.

Mr. BURNETT. No. 17..it was merely by inserting..

Mr. MOORE. The words "conventions or" seem to have been inserted.

Mr. BURNETT. Yes; "treaties, conventions, or agreements"; and it was merely for the purpose of covering

cases that "conventions" only could reach that that word was put in.."treaties, conventions, or agreements.

Mr. MOORE. That was to conform to the phraseology later on?

Mr. BURNETT. Yes.

Mr. MOORE. Will the gentleman explain, before he moves the previous question, whether the insertion of these treaty and convention paragraphs means that the treaties had with other nations.."treaties, conventions, and agreements..with respect to passports are to be observed, so far as the rights of the foreign nations are concerned.

Mr. BURNETT. Yes; that is correct.

Mr. MOORE. That is to say, if any question like that of the Jewish question coming up from Russia should be raised, there would have to be a respect for the treaty or agreement had with that nation, and notice of abrogation would have to be given in the usual way?

Mr. BURNETT. Yes; I suppose so.

Mr. MOORE. Would that apply to any agreement had with respect to the Chinese and Japanese?

Mr. BURNETT. I think "treaties, conventions, and agreements" would apply to what the gentleman understands is a gentleman's agreement as to Japanese.

Mr. MOORE. Yes. There is a gentleman's agreement there, though I understand there is a dispute as to its binding qualities.

附屬書第六十四號 「バーネット」法案 (H. R. 10384)

H. R. 10384.

IN THE HOUSE OF REPRESENTATIVES.

January 29, 1916.

Mr. BURNETT introduced the following bill; which was referred to the Committee on Immigration and Naturalization and ordered to be printed.

A BILL

To regulate the immigration of aliens to, and the residence of aliens in, the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the word "alien" wherever used in this Act shall include any person not a native-born or naturalized citizen of the United States; but this definition shall not be held to include Indians of the United States not taxed or citizens of the islands under the jurisdiction of the United States. That the term "United States" as used in the title as well as in the various sections of this Act shall be construed to mean the United States, and any waters, territory, or other place subject to the jurisdiction thereof, except the Isthmian Canal Zone; but if any alien shall leave the Canal Zone or any insular possession of the United States and attempt to enter any other place under the jurisdiction of the United States, nothing contained in this Act shall be construed as permitting him to enter under any other conditions than those applicable to all aliens. That the term "seaman" as used in this Act shall include every person signed on the ship's articles and employed in any capacity on board any vessel arriving in the United States from any foreign port or place.

That this Act shall be enforced in the Philippine Islands by officers of the General Government thereof designated by appropriate legislation of said Government.

SEC. 2. That there shall be levied, collected, and paid a tax of $8 for every alien, including alien seamen regularly admitted as provided in this Act, entering the United States: *Provided,* That children under sixteen years of age who accompany their father or their mother shall not be subject to said tax. The said tax shall be paid to the collector of customs of the port or customs district to which said alien shall come, or, if there be no collector at such port or district, then to the collector nearest thereto, by the master, agent, owner, or consignee of the vessel, transportation line, or other conveyance or vehicle bringing such alien to the United States, or by the alien himself if he does not come by a vessel, transportation line, or other conveyance or vehicle or when collection from the master, agent, owner, or consignee of the vessel, transportation line, or other conveyance, or vehicle

bringing such alien to the United States is impracticable. The tax imposed by this section shall be a lien upon the vessel or other vehicle of carriage or transportation bringing such aliens to the United States, and shall be a debt in favor of the United States against the owner or owners of such vessel or other vehicle, and the payment of such tax may be enforced by any legal or equitable remedy. That the said tax shall not be levied on account of aliens who enter the United States from the Dominion of Canada, Newfoundland, the Republic of Cuba, or the Republic of Mexico, for a temporary stay, nor on account of otherwise admissible residents of any possession of the United States, nor on account of aliens in transit through the United States, nor upon aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory, and the Commissioner General of Immigration with the approval of the Secretary of Labor shall issue rules and regulations and prescribe the conditions necessary to prevent abuse of the exceptions: *Provided,* That the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Labor, by agreement with transportation lines, as provided in section twenty-three of this Act, may arrange in some other manner for the payment of the tax imposed by this section upon any or all aliens seeking admission from foreign contiguous territory: *Provided further,* That said tax, when levied upon aliens entering the Philippine Islands, shall be paid into the treasury of said islands, to be expended for the

benefit of such islands: *Provided further,* That in the cases of aliens applying for admission from foreign contiguous territory and rejected, the head tax collected shall upon application, upon a blank which shall be furnished and explained to him, be refunded to the alien.

SEC. 3. That the following classes of aliens shall be excluded from admission into the United States: All idiots, imbeciles, feeble-minded persons, epileptics, insane persons; persons who have had one or more attacks of insanity at any time previously; persons of constitutional psychopathic inferiority; persons with chronic alcoholism; paupers; professional beggars; vagrants; persons afflicted with tuberculosis in any form or with a loathsome or dangerous contagious disease; persons not comprehended within any of the foregoing excluded classes who are found to be and are certified by the examining surgeon as being mentally or physically defective, such physical defect being of a nature which may affect the ability of such alien to earn a living; persons who have been convicted of or admit having committed a felony of other crime or misdemeanor involving moral turpitude; polygamists, or persons who practice polygamy or believe in or advocate the practice of polygamy; anarchists, or persons who believe in or advocate the overthrow by force or violence of the Government of the United States, or of all forms of law, or who disbelieve in or are opposed to organized government, or who advocate the assassination of public officials, or who advocate or teach the unlawful destruction of property; persons who are members of or affiliated with any organiza-

tion entertaining and teaching disbelief in or opposition to organized government, or who advocate or teach the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character, or who advocate or teach the unlawful destruction of property; prostitutes, or persons coming into the United States for the purpose of prostitution or for any other immoral purpose; persons who directly or indirectly procure or attempt to procure or import prostitutes or persons for the purpose of prostitution or for any other immoral purpose; persons who are supported by or receive in whole or in part the proceeds of prostitution; persons hereinafter called contract laborers, who have been induced, assisted, encouraged, or solicited to migrate to this country by offers or promises of employment, whether such offers or promises are true or false, or in consequence of agreements, oral, written or printed, express or implied, to perform labor in this country of any kind, skilled or unskilled; persons who have come in consequence of advertisements for laborers printed, published, or distributed in a foreign country; persons likely for any reason to become a public charge; persons who have been deported under any of the provisions of this Act, and who may again seek admission within one year from the date of such deportation, unless prior to their reembarkation at a foreign port the Secretary of Labor shall have consented to their reapplying for admission; persons whose ticket or

passage is paid for with the money of another, or who is assisted by others to come, unless it is affirmatively and satisfactorily shown that such person does not belong to one of the foregoing excluded classes; persons whose ticket or passage is paid for by any corporation, association, society, municipality, or foreign Government, either directly or indirectly; stowaways, except that any such stowaway, if otherwise admissible, may be admitted in the discretion of the Secretary of Labor; all children under sixteen years of age, unaccompanied by or not coming to one or both of their parents, except that any such children may, in the discretion of the Secretary of Labor, be admitted if in his opinion they are not likely to become a public charge and are otherwise eligible; Hindus and persons who can not become eligible, under existing law, to become citizens of the United States by naturalization, unless otherwise provided for by existing agreements as to passports, or by existing treaties, conventions, or agreements or by treaties, conventions, or agreements that may hereafter be entered into. The provision next foregoing, however, shall not apply to persons of the following status or occupations: Government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, civil engineers, teachers, students, authors, merchants, and travelers for curiosity or pleasure, nor to their legal wives or their children under sixteen years of age who shall accompany them or who subsequently may apply for admission to the United States, but such persons or their legal wives or foreign-born children who fail to maintain in the

United States a status or occupation placing them within the excepted classes shall be deemed to be in the United States contrary to law, and shall be subject to deportation as provided in section nineteen of this Act.

That after three months from the passage of this Act, in addition to the aliens who are by law now excluded from admission into the United States, the following persons shall also be excluded from admission thereto, to wit:

All aliens over sixteen years of age, physically capable of reading, who can not read the English language, or some other language or dialect, including Hebrew or Yiddish: *Provided,* That any admissible alien, or any alien heretofore or hereafter legally admitted, or any citizen of the United States, may bring in or send for his father or grandfather over fifty-five years of age, his wife, his mother, his grandmother, or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not; and such relative shall be permitted to enter. That for the purpose of ascertaining whether aliens can read the immigrant inspectors shall be furnished with slips of uniform size, prepared under the direction of the Secretary of Labor, each containing not less than thirty nor more than forty words in ordinary use, printed in plainly legible type in some one of the various languages or dialects of immigrants. Each alien may designate the particular language or dialect in which he desires the examination to be made, and shall be required to read the words printed on the slip in such language or dialect. That the following classes of persons shall be ex-

empt from the operation of the illiteracy test, to wit: All aliens who shall prove to the satisfaction of the proper immigration officer or to the Secretary of Labor that they are seeking admission to the United States to avoid religious persecution in the country of their last permanent residence, whether such persecution be evidenced by overt acts or by laws or governmental regulations that discriminate against the alien or the race to which he belongs because of his religious faith; all aliens who have been lawfully admitted to the United States and who have resided therein continuously for five years, and who have in accordance with the law declared their intention of becoming citizens of the United States and who return to the United States within six months from the date of their departure therefrom; all aliens in transit through the United States; all aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory; *Provided,* That nothing in this Act shall exclude, if otherwise admissible, persons convicted, or who admit the commission, or who teach or advocate the commission, of an offense purely political: *Provided further,* That the provisions of this Act, relating to the payments for tickets or passage by any corporation, association, society, municipality, or foreign Government shall not apply to the tickets or passage of aliens in immediate and continuous transit through the United States to foreign contiguous territory: *Provided further,* That skilled labor, if otherwise admissible, may be imported if labor of like kind

unemployed can not be found in this country, and the question of the necessity of importing such skilled labor in any particular instance may be determined by the Secretary of Labor upon the application of any person interested, such application to be made before such importation, and such determination by the Secretary of Labor to be reached after a full hearing and an investigation into the facts of the case: *Provided further,* That the provisions of this law applicable to contract labor shall not be held to exclude professional actors, artists, lecturers, signers, ministers of any religious denomination, professors for colleges or seminaries, persons belonging to any recognized learned profession, or persons employed strictly as personal or domestic servants: *Provided further,* That whenever the President shall be satisfied that passports issued by any foreign Government to its citizens or subjects to go to any country other than the United States, or to any insular possession of the United States or to the Canal Zone, are being used for the purpose of enabling the holder to come to the continental territory of the United States to the detriment of labor conditions therein, the President shall refuse to permit such citizens or subjects of the country issuing such passports to enter the continental territory of the United States from such other country or from such insular possession or from the Canal Zone: *Provided further,* That aliens who have declared their intention to become citizens, and aliens returning after a temporary absence to an unrelinquished United States domicile of seven consecutive years, may be admitted in the discretion of the

Secretary of Labor, and under such conditions as he may prescribe: *Provided further,* That nothing in the contract-labor or reading test provisions of this Act shall be construed to prevent, hinder, or restrict any alien exhibitor, or holder of concession or privilege for any fair or exposition authorized by Act of Congress, from bringing into the United States, under contract, such otherwise admissible alien mechanics, artisans, agents, or other employees, natives of his country as may be necessary for installing or conducting his exhibit or for preparing for installing or conducting any business authorized or permitted under any concession or privilege which may have been or may be granted by any such fair or exposition in connection therewith, under such rules and regulations as the Commissioner General of Immigration, with the approval of the Secretary of Labor, may prescribe both as to the admission and return of such persons: *Provided further,* That the Commissioner General of Immigration with the approval of the Secretary of Labor shall issue rules and prescribe conditions, including exaction of such bonds as may be necessary to control and regulate the admission and return of students and others applying for temporary admission: *Provided further,* That nothing in this Act shall be construed to apply to accredited officials of foreign Governments, nor to their suites, families, or guests.

SEC. 4. That the importation into the United States of any alien for the purpose of prostitution, or for any other immoral purpose, is hereby forbidden; and whoever shall, directly or indirectly, import, or attempt to import into the

United States any alien for the purpose of prostitution or for any other immoral purpose, or shall hold or attempt to hold any alien for any such purpose in pursuance of such illegal importation, or shall keep, maintain, control, support, employ, or harbor in any house or other place, for the purpose of prostitution or for any other immoral purpose, any alien, in pursuance of such illegal importation, shall in every such case be deemed guilty of a felony, and on conviction thereof shall be punished by imprisonment for a term of not more than ten years and by a fine of not more than $5,000. Jurisdiction for the trial and punishment of the felonies hereinbefore set forth shall be in any district to or into which said alien is brought in pursuance of said importation by the person or persons accused, or in any district section occurs. That any alien who shall, after he has been excluded and deported or arrested and deported in pursuance of the provisions of this Act which relate to prostitutes, procurers, or other like immoral persons, attempt thereafter to return to or to enter the United States shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment for a term of not more than two years. In all prosecutions under this section the testimony of a husband or wife shall be admissible and competent evidence against each other.

SEC. 5. That it shall be unlawful for any person, company, partnership, or corporation, in any manner whatsoever, to prepay the transportation or in any way to induce, assist, encourage, or solicit, or attempt to induce, assist, encourage,

or solicit the importation or migration of any contract laborer or contract laborers into the United States, unless such contract laborer or contract laborers are exempted under the fourth proviso of section three of this Act, or have been imported with the permission of the Secretary of Labor in accordance with the third proviso of said section, and for every violation of any of the provisions of this section the person, partnership, company, or corporation violating the same shall forfeit any pay for every such offense the sum of $1,000 which may be sued for and recovered by the United States, as debts of like amount are now recovered in the courts of the United States. For every violation of the provisions hereof the person violating the same may be prosecuted in a criminal action for a misdemeanor, and on conviction thereof shall be punished by a fine of $1,000, or by imprisonment for a term of not less than six months nor more than two years; and under either the civil or the criminal procedure mentioned separate suits or prosecutions may be brought for each alien thus offered or promised employment as aforesaid. The Department of Justice may from any fines or penalties received pay rewards to persons other than Government employees who may furnish information leading to the recovery of any such penalties, or to the arrest and punishment of any person, as hereinafter in this section provided.

SEC. 6. That it shall be unlawful and be deemed a violation of section five of this Act to induce, assist, encourage, or solicit or attempt to induce, assist, encourage, or solicit any alien to come into the United States by promise of employ-

ment through advertisements printed, published, or distributed in any foreign country, whether such promise is true or false, and either the civil or criminal penalty or both imposed by said section shall be applicable to such a case.

SEC. 7. That it shall be unlawful for any person, association, society, company, partnership, corporation, or others engaged in the business of transporting aliens to or within the United States, including owners, masters, officers, and agents of vessels, directly or indirectly, by writing, printing, oral representation, payment of any commissions to an alien coming into the United States, allowance of any rebates to an alien coming into the United States, or otherwise to solicit, invite, or encourage or attempt to solicit, invite, or encourage any alien to come into the United States, and anyone violating any provision hereof shall be subject to either the civil or the criminal prosecution or both prescribed by section five of this Act; or if it shall appear to the satisfaction of the Secretary of Labor that any owner, master, officer, or agent of a vessel has brought or caused to be brought to a port of the United States any alien so solicited, invited, or encouraged to come by such owner, master, officer, or agent, such owner, master, officer, or agent shall pay to the collector of customs of the customs district in which the port of arrival is located, or in which any vessel of the line may be found, the sum of $400 for each and every such violation; and no vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine, or while the fine imposed remains unpaid, nor shall such fine

be remitted or refunded: *Provided,* That clearance may be granted prior to the determination of such questions upon the deposit with the collector of customs of a sum sufficient to cover such fine: *Provided further,* That whenever it shall be shown to the satisfaction of the Secretary of Labor that the provisions of this section are persistently violated by or on behalf of any transportation company, it shall be the duty of said Secretary to deny to such company the privilege of landing alien immigrant passengers of any or all classes at United States ports for such a period as in his judgment may be necessary to insure an observance of such provisions: *Provided further,* That this section shall not be held to prevent transportation companies from issuing letters, circulars, or advertisements, confined strictly to stating the sailing of their vessels and terms and facilities of transportation therein: *Provided further,* That under sections five, six, and seven hereof it shall be presumed from the fact that any person, company, partnership, corporation, association, or society induces, assists, encourages, solicits or invites, or attempts to induce, assist, encourage, solicit or invite the importation, migration or coming of an alien from a country foreign to the United States, that the offender had knowledge of such person's alienage.

SEC. 8. That any person, including the master, agent, owner, or consignee of any vessel, who shall bring into or land in the United States, by vessel or otherwise, or shall attempt, by himself or through another, to bring into or land

in the United States, by vessel or otherwise, or shall conceal or harbor, or attempt to conceal or harbor, or assist or abet another to conceal or harbor in any place, including any building, vessel, railway car, conveyance, or vehicle, any alien not duly admitted by an immigrant inspector or not lawfully entitled to enter or to reside within the United States under the terms of this Act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $2,000 and by imprisonment for a term not exceeding five years, for each and every alien so landed or brought in or attempted to be landed or brought in.

SEC. 9. That it shall be unlawful for any person, including any transportation company other than railway lines entering the United States from foreign contiguous territory, or the owner, master, agent, or consignee of any vessel to bring to the United States either from a foreign country or any insular possession of the United States any alien afflicted with idiocy, insanity, imbecility, feeblemindedness, epilepsy, constitutional psychopathic inferiority, chronic alcoholism, tuberculosis in any form, or a loathsome or dangerous contagious disease, and if it shall appear to the satisfaction of the Secretary of Labor that any alien so brought to the United States was afflicted with any of the said diseases or disabilities at the time of foreign embarkation, and that the existence of such disease or disability might have been detected by means of a competent medical examination at such time, such person or transportation company, or the master, agent, owner, or consignee of any such vessel shall pay to

the collector of customs of the customs district in which the port of arrival is located the sum of $200, and in addition a sum equal to that paid by such alien for his transportation from the initial point of departure, indicated in his ticket, to the port of arrival, for each and every violation of the provisions of this section, such latter sum to be delivered by the collector of customs to the alien on whose account assessed. It shall also be unlawful for any such person to bring to any port of the United States any alien afflicted with any mental defect other than those above specifically named, or physical defect of a nature which may affect his ability to earn a living, as contemplated in section three of this Act, and if it shall appear to the satisfaction of the Secretary of Labor that any alien so brought to the United States was so afflicted at the time of foreign embarkation, and that the existence of such mental or physical defect might have been detected by means of a competent medical examination at such time, such person shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $25, and in addition a sum equal to that paid by such alien for his transportation from the initial point of departure, indicated in his ticket, to the port of arrival, for each and every violation of this provision, such latter sum to be delivered by the collector of customs to the alien for whose account assessed. It shall also be unlawful for any such person to bring to any port of the United States any alien who is excluded by the provisions of section three of this Act because unable to read, or who are Hindus, or who can not

become eligible, under existing law, to become a citizen of the United States by naturalization, as provided in section three of this Act, and if it shall appear to the satisfaction of the Secretary of Labor that these disabilities might have been detected by the exercise of reasonable precaution prior to the departure of such aliens from a foreign port, such person shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $200, and in addition a sum equal to that paid by such alien for his transportation from the initial point of departure, indicated in his ticket, to the port of arrival, for each and every violation of this provision, such latter sum to be delivered by the collector of customs to the alien on whose account assessed. And no vessel shall be granted clearance papers pending the determination of the question of the liability to the payment of such fine, or while the fine remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such questions upon the deposit of a sum sufficient to cover such fine.

SEC. 10. That it shall be the duty of every person, including owners, officers, and agents of vessels or transportation lines, or international bridges or toll roads other than railway lines, which may enter into a contract as provided in section twenty-three of this Act, bringing an alien to, or providing a means for an alien to come to, any seaport or land border port of the United States, to prevent the landing of such alien in the United States at any time or place

other than as designated by the immigration officers, and the failure of any such person, owner, officer, or agent to comply with the foregoing requirements shall be deemed a misdemeanor and on conviction thereof shall be punished by a fine in each case of not less than $200 nor more than $1,000, or by imprisonment for a term not exceeding one year, or by both such fine and imprisonment; or, if in the opinion of the Secretary of Labor it is impracticable or inconvenient to prosecute the person, owner, master, officer, or agent of any such vessel, a penalty of $1,000 shall be a lien upon the vessel whose owner, master, officer, or agent violates the provisions of this section, and such vessel shall be libeled therefor in the appropriate United States court.

SEC. 11. That for the purpose of determining whether aliens arriving at ports of the United States belong to any of the classes excluded by this Act, either by reason of being afflicted with any of the diseases of mental or physical defects or disabilities mentioned in section three hereof, or otherwise, or whenever the Secretary of Labor has received information showing that any aliens are coming from a country or have embarked at a place where any of said diseases are prevalent or epidemic, the Commissioner General of Immigration, with the approval of the Secretary of Labor, may direct that such aliens shall be detained on board the vessel bringing them, or in a United States immigration station at the expense of such vessel, as circumstances may require or justify, a sufficient time to enable the immigration officers and medical officers stationed at such ports to subject such aliens to an

observation and examination sufficient to determine whether or not they belong to the said excluded classes by reason of being afflicted in the manner indicated: *Provided*, That, with a view to avoid undue delay in landing passengers or interference with commerce, the Commissioner General of Immigration may, with the approval of the Secretary of Labor, issue such regulations, not inconsistent with law, as may be deemed necessary to effect the purposes of this section: *Provided further*, That it shall be the duty of immigrant inspectors to report to the Commissioner General of Immigration the condition of all vessels bringing aliens to United States ports and whether such vessels conform in their arrangements to the requirements of the passenger Act approved August second, eighteen hundred and eighty-two, and amendments thereto, and the provisions of this section shall be excepted from that portion of section thirty-eight of this Act which provides that this Act shall not be construed to repeal, alter, or amend section six, chapter four hundred and fifty-three, third session, fifty-eighth Congress, approved February sixth, nineteen hundred and five, or the Act approved August second, eighteen hundred and eighty-two, entitled "An Act to regulate the carriage of passengers by sea," and amendments thereto.

SEC. 12. That upon the arrival of any alien by water at any port within the United States on the North American Continent from a foreign port or a port of Philippine Islands, Guam, Porto Rico, or Hawaii, or at any port of the said insular possessions from any foreign port, from a port in the

United States on the North American Continent, or from a port of another insular possession of the United States, it shall be the duty of the master or commanding officer, owners, or consignees of the steamer, sailing, or other vessel having said alien on board to deliver to the immigration officers at the port of arrival typewritten or printed lists or manifests made at the time and place of embarkation of such alien on board such steamer or vessel, which shall, in answer to questions at the top of said list, contain full and accurate information as to each alien as follows: Full name, age, and sex; whether married or single; calling or occupation; personal description (including height, complexion, color of hair and eyes, and marks of identification); whether able to read or write; nationality; country of birth; race; country of last permanent residence; name and address of the nearest relative in the country from which the alien came; seaport for landing in the United States; final destination, if any, beyond the port of landing; whether having a ticket through to such final destination; by whom passage was paid; whether in possession of $50, and if less, how much; whether going to join a relative or friend, and, if so, what relative or friend, and his or her name and complete address; whether ever before in the United States, and if so, when and where; whether ever in prison or almshouse or an institution or hospital for the care and treatment of the insane; whether ever supported by charity; whether a polygamist; whether an anarchist; whether a person who believes in or advocates the overthrow by force or violence of the Government of the

United States or of all forms of law, or who disbelieves in or is opposed to organized government, or who advocates the assassination of public officials, or who advocates or teaches the unlawful destruction of property, or is a member of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or who teaches the unlawful destruction of property, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government because of his or their official character; whether coming by reason of any offer, solicitation, promise, or agreement, express or implied, to perform labor in the United States; the alien's condition of health, mental and physical; whether deformed or crippled, and if so, for how long and from what cause; and such master or commanding officer, owners, or consignees shall also furnish information in relation to the sex, age, class of travel, and the foreign port of embarkation of arriving passengers who are United States citizens. That it shall further be the duty of the master or commanding officer of every vessel taking passengers from any port of the United States on the North American Continent to a foreign port or a port of the Philippine Islands, Guam, Porto Rico, or Hawaii, or from any port of the said insular possessions to any foreign port, to a port of the United States on the North American Continent, or to a port of another insular possession of the United States to file with the immigration

officials before departure a list which shall contain full and accurate information in relation to the following matters regarding all alien passengers, and all citizens of the United States or insular possessions of the United States departing with the stated intent to reside permanently in a foreign country, taken on board: Name, age, and sex; whether married or single; calling or occupation; whether able to read or write; nationality; country of birth; country of which citizen or subject; race; last permanent residence in the United States or insular possessions thereof; if a citizen of the United States or of the insular possessions thereof, whether native born or naturalized; if native born, the place and date of birth, or if naturalized, the city or town in which naturalization has been had; intended future permanent residence; and time and port of last arrival in the United States, or insular possessions thereof; and such master or commanding officer shall also furnish information in relation to the sex, age, class of travel, and port of debarkation of the United States citizens departing who do not intend to reside permanently in a foreign country, and no master of any such vessel shall be granted clearance papers for his vessel until he has deposited such list or lists with the immigration officials at the port of departure and made oath that they are full and complete as to the name and other information herein required concerning each person of the classes specified taken on board his vessel; and any neglect or omission to comply with the requirements of this section shall be punishable as provided in section fourteen of this Act: *Provided,* That in

the case of vessels making regular trips to ports of the United States the Commissioner General of Immigration, with the approval of the Secretary of Labor, may, when expedient, arrange for the delivery of such lists of outgoing aliens at a later date: *Provided further*, That it shall be the duty of immigration officials to record the following information regarding every resident alien and citizen leaving the United States by way of the Canadian or Mexican borders for permanent residence in a foreign country: Name, age, and sex; whether married or single; calling or occupation; whether able to read or write; nationality; country of birth; country of which citizen or subject; race; last permanent residence in the United States; intended future permanent residence; and time and port of last arrival in the United States; and if a United States citizen, whether native born or naturalized.

SEC. 13. That all aliens arriving by water at the ports of the United States shall be listed in convenient groups, the names of those coming from the same locality to be assembled so far as practicable, and no one list or manifest shall contain more than thirty names. To each alien or head of a family shall be given a ticket on which shall be written his name, a number or letter designating the list in which his name, and other items of information required by this Act, are contained, and his number on said list, for convenience of identification on arrival. Each list or manifest shall be verified by the signature and the oath or affirmation of the master or commanding officer, or the first or second below him in command, taken before an immigration officer at the

port of arrival, to the effect that he has caused the surgeon of said vessel sailing therewith to make a physical and mental examination of each of said aliens, and that from the report of said surgeon and from his own investigation he believes that no one of said aliens is of any of the classes excluded from admission into the United States by section three of this Act, and that also according to the best of his knowledge and belief the information in said lists or manifests concerning each of said aliens named therein is correct and true in every respect. That the surgeon of said vessel sailing therewith shall also sign each of said lists or manifests and make oath or affirmation in like manner before an immigration officer at the port of arrival, stating his professional experience and qualifications as a physician and surgeon, and that he has made a personal examination of each of the said aliens named therein, and that the said list or manifest, according to the best of his knowledge and belief, is full, correct, and true in all particulars relative to the mental and physical condition of said aliens. If no surgeon sails with any vessel bringing aliens, the mental and physical examination and the verifications of the lists or manifests shall be made by some competent surgeon employed by the owners of the said vessels, and the manifests shall be verified by such surgeon before a United States consular officer.

SEC. 14. That it shall be unlawful for the master or commanding officer of any vessel bringing aliens into or carrying aliens out of the United States to refuse or fail to deliver to the immigration officials the accurate and full

manifests or statements or information regarding all aliens on board or taken on board such vessel required by this Act and if it shall appear to the satisfaction of the Secretary of Labor that there has been such a refusal or failure, or that the lists delivered are not accurate and full, such master or commanding officer shall pay to the collector of customs at the port of arrival or departure the sum of $10 for each alien concerning whom such accurate and full manifest or statement or information is not furnished, or concerning whom the manifest or statement or information is not prepared and sworn to as prescribed by this Act. No vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine, or while it remains unpaid, nor shall such fine be remitted or refunded: *Provided,* That clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a sum sufficient to cover such fine.

SEC. 15. That upon the arrival at a port of the United States of any vessel bringing aliens it shall be the duty of the proper immigration officials to go or to send competent assistants to the vessel and there inspect all such aliens, or said immigration officials may order a temporary removal of such aliens for examination at a designated time and place, but such temporary removal shall not be considered a landing, nor shall it relieve vessels, the transportation lines, masters, agents, owners, or consignees of the vessel upon which said aliens are brought to any port of the United States from any of the obligations which, in case such aliens

remain on board, would under the provisions of this Act bind the said vessels, transportation lines, masters, agents, owners, or consignees: *Provided,* That where removal is made to premises owned or controlled by the United States, said vessels, transportation lines, masters, agents, owners, or consignees, and each of them, shall, so long as detention there lasts, be relieved of responsibility for the safekeeping of such aliens. Whenever a temporary removal of aliens is made the vessels or transportation lines which brought them and the masters, owners, agents, and consignees of the vessel upon which they arrive shall pay all expenses of such removal and all expenses arising during subsequent detention, pending decision on the aliens' eligibility to enter the United States and until they are either allowed to land or returned to the care of the line or to the vessel which brought them, such expenses to include those of maintenance, medical treatment in hospital or elsewhere, burial in the event of death, and transfer to the vessel in the event of deportation, excepting only where they arise under the terms of any of the provisos of section eighteen hereof. Any refusal or failure to comply with the provisions hereof shall be punished in the manner specified in section eighteen of this Act.

SEC. 16. That the physical and mental examination of all arriving aliens shall be made by medical officers of the United States Public Health Service who shall have had at least two years' experience in the practice of their profession since receiving the degree of doctor of medicine, and who shall certify, for the information of the immigration officers

and the boards of special inquiry hereinafter provided for, any and all physical and mental defects or diseases observed by said medical officers in any such alien; or, should medical officers of the United States Public Health Service be not available, civil surgeons of not less than four years' professional experience may be employed in such emergency for such service, upon such terms as may be prescribed by the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Labor. All aliens arriving at ports of the United States shall be examined by two such medical officers at the discretion of the Secretary of Labor, and under such regulations as he may prescribe. Medical officers of the United States Public Health Service who have had especial training in the diagnosis of insanity and mental defect shall be detailed for duty or employed at all ports of entry designated by the Secretary of Labor, and such medical officers shall be provided with suitable facilities for the detention and examination of all arriving aliens in whom insanity or mental defect is suspected, and the services of interpreters shall be provided for such examination. Any alien certified for insanity or mental defect may appeal to the Board of Public Health Surgeons, and may introduce before such board one expert medical witness at his own cost and expense. That the inspection, other than the physical and mental examination, of aliens, including those seeking admission or readmission to or the privilege of passing through or residing in the United States, and the examination of aliens arrested within the United States under this Act,

shall be conducted by immigrant inspectors, except as hereinafter provided in regard to boards of special inquiry. All aliens arriving at ports of the United States shall be examined by at least two immigrant inspectors at the discretion of the Secretary of Labor and under such regulations as he may prescribe. Immigrant inspectors are hereby authorized and empowered to board and search for aliens any vessel, railway car, or any other conveyance, or vehicle in which they believe aliens are being brought into the United States. Said inspectors shall have power to administer oaths and to take and consider evidence touching the right of any alien to enter, reenter, pass through, or reside in the United States, and, where such action may be necessary, to make a written record of such evidence; and any person to whom such an oath has been administered, under the provisions of this Act, who shall knowingly or willfully give false evidence or swear to any false statement in any way affecting or in relation to the right of any alien to admission, or readmission to, or to pass through, or to reside in the United States shall be deemed guilty of perjury and be punished as provided by section one hundred and twenty-five of the Act approved March fourth, nineteen hundred and nine, entitled "An Act to codify, revise, and amend the penal laws of the United States." Any commissioner of immigration or inspector in charge shall also have power to require the attendance and testimony of witnesses before said inspectors and the production of books, papers, and documents touching the right of any alien to enter, reenter, reside in, or pass through the United States,

and to that end may invoke the aid of any court of the United States; and any district court within the jurisdiction of which investigations are being conducted by an immigrant inspector may, in the event of neglect or refusal to respond to a subpoena issued by any commissioner of immigration or inspector in charge or refusal to testify before said immigrant inspector, issue an order requiring such person to appear before said immigrant inspector, produce books, papers, and documents if demanded, and testify; and any failure to obey such order of the court shall be punished by the court as a contempt thereof. That any person, including employees, officials, or agents of transportation companies, who shall assault, resist, prevent, impede, or interfere with any immigration official or employee in the performance of his duty under this Act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment for a term of not less than six months nor more than two years, or by a fine of not less than $200 nor more than $2,000; and any person who shall use any deadly or dangerous weapon in resisting any immigration official or employee in the performance of his duty shall be deemed guilty of a felony and shall, on conviction thereof, be punished by imprisonment for not less than one nor more than ten years. Every alien who may not appear to the examining immigrant inspector at the port of arrival to be clearly and beyond a doubt entitled to land shall be detained for examination in relation thereto by a board of special inquiry. In the event of rejection by the board of special inquiry, in all cases where an appeal to the Secretary of Labor is permitted by this Act, the alien shall be so informed and shall have the right to be represented by counsel or other adviser on such appeal. The decision of an immigrant inspector, if favorable to the admission of any alien, shall be subject to challenge by any other immigrant inspector, and such challenge shall operate to take the alien whose right to land is so challenged before a board of special inquiry for its investigation.

SEC. 17. That boards of special inquiry shall be appointed by the commissioner of immigration or inspector in charge at the various ports of arrival as may be necessary for the prompt determination of all cases of immigrants detained at such ports under the provisions of the law. Each board shall consist of three members, who shall be selected from such of the immigrant officials in the service as the Commissioner General of Immigration, with the approval of the Secretary of Labor, shall from time to time designate as qualified to serve on such boards. When in the opinion of the Secretary of Labor the maintenance of a permanent board of special inquiry for service at any sea or land border port is not warranted, regularly constituted boards may be detailed from other stations for temporary service at such port, or, if that be impracticable, the Secretary of Labor shall authorize the creation of boards of special inquiry by the immigration officials in charge at such ports, and shall determine what Government officials or other persons shall be eligible for service on such boards. Such boards shall have authority to determine whether an alien who has been duly held shall

be allowed to land or shall be deported. All hearings before such boards shall be separate and apart from the public. Such boards shall keep a complete permanent record of their proceedings and of all such testimony as may be produced before them; and the decisions of any two members of the board shall prevail, but either the alien or any dissenting member of the said board may appeal through the commissioner of immigration at the port of arrival and the Commissioner General of Immigration to the Secretary of Labor, and the taking of such appeal shall operate to stay any action in regard to the final disposal of any alien whose case is so appealed until the receipt by the commissioner of immigration at the port of arrival of such decision which shall be rendered solely upon the evidence adduced before the board of special inquiry. In every case where an alien is excluded from admission into the United States, under any law or treaty now existing or hereafter made, the decision of a board of special inquiry adverse to the admission of such alien shall be final, unless reversed on appeal to the Secretary of Labor: *Provided*, That the decision of a board of special inquiry shall be based upon the certificate of the examining medical officer and, except as provided in section twenty-one hereof, shall be final as to the rejection of aliens affected with tuberculosis in any form or with a loathsome or dangerous contagious disease, or with any mental or physical disability which would bring such aliens within any of the classes excluded from admission to the United States under section three of this Act.

SEC. 18. That all aliens brought to this country in violation of law shall be immediately sent back, in accommodations of the same class in which they arrived, to the country whence they respectively came, on the vessels bringing them, unless in the opinion of the Secretary of Labor immediate deportation is not practicable or proper. The cost of their maintenance while on land, as well as the expense of the return of such aliens, shall be borne by the owner or owners of the vessels on which they respectively came. That it shall be unlawful for any master, purser, person in charge, agent, owner, or consignee of any such vessel to refuse to receive back on board thereof, or on board of any other vessel owned or operated by the same interests, such aliens; or to fail to detain them thereon; or to refuse or fail to return them in the manner aforesaid to the foreign port from which they came; or to pay the cost of their maintenance while on land; or to make any charge for the return of any such alien, or to take any security for the payment of such charge; or to take any consideration to be returned in case the alien is landed; or knowingly to bring to the United States at any time within one year from the date of deportation any alien rejected or arrested and deported under any provision of this Act, unless prior to reembarkation the Secretary of Labor has consented that such alien shall reapply for admission, as required by section three hereof; and if it shall appear to the satisfaction of the Secretary of Labor that such master, purser, person in charge, agent, owner, or consignee has violated any of the foregoing provisions, such master, purser, person in charge,

agent, owner, or consignee shall pay to the collector of customs of the district in which the port of arrival is located, or in which any vessel of the line may be found, the sum of $300 for each and every violation of any provision of this section; and no vessel shall have clearance from any port of the United States while any such fine is unpaid, nor shall such fine be remitted or refunded: *Provided,* That clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a sum sufficient to cover such fine. If the vessel by which any alien ordered deported came has left the United States and it is impracticable for any reason to deport the alien within a reasonable time by another vessel owned by the same interests, the cost of deportation may be paid by the Government and recovered by civil suit from any agent, owner, or consignee of the vessel: *Provided further,* That the Commissioner General of Immigration, with the approval of the Secretary of Labor, may suspend, upon conditions to be prescribed by the Commissioner General of Immigration, the deportation of any aliens found to have come in violation of any provision of this Act if, in his judgment, the testimony of such alien is necessary on behalf of the United States Government in the prosecution of offenders against any provision of this Act or other laws of the United States; and the cost of maintenance of any person so detained resulting from such suspension of deportation, and a witness fee in the sum of $1 per day for each day such person is so detained, may be paid from the appropriation for the enforcement of this Act, or such alien may

be released under bond, in the penalty of not less than $500, with security approved by the Secretary of Labor, conditioned that such alien shall be produced when required as a witness and for deportation. No alien certified, as provided in section sixteen of this Act, to be suffering from tuberculosis in any form, or from a loathsome or dangerous contagious disease other than one of quarantinable nature, shall be permitted to land for medical treatment thereof in any hospital in the United States, unless the Secretary of Labor is satisfied that to refuse treatment would be inhumane or cause unusual hardship or suffering, in which such case the alien shall be treated in the hospital under the supervision of the immigration officials at the expense of the vessel transporting him: *Provided further,* That upon the certificate of a medical officer of the United States Public Health Service to the effect that the health or safety of an insane alien would be unduly imperiled by immediate deportation, such alien may, at the expense of the appropriation for the enforcement of this Act, be held for treatment until such time as such alien may, in the opinion of such medical officer, be safely deported: *Provided further,* That upon the certificate of a medical officer of the United States Public Health Service to the effect that a rejected alien is helpless from sickness, mental or physical disability, or infancy, if such alien is accompanied by another alien whose protection or guardianship is required by such rejected alien, such accompanying alien may also be excluded, and the master, agent, owner, or consignee of the vessel in

which such alien and accompanying alien are brought shall be required to return said alien and accompanying alien in the same manner as vessels are required to return other rejected aliens.

SEC. 19. That at any time within five years after entry, any alien who at the time of entry was a member of one or more of the classes excluded by law; any alien who shall have entered or who shall be found in the United States in violation of this Act, or in violation of any other law of the United States; any alien who after entry shall be found advocating or teaching the unlawful destruction of property, or advocating or teaching anarchy, or the overthrow by force or violence of the Government of the United States or of all forms of law or the assassination of public officials; any alien who within five years after entry becomes a public charge from causes not affirmatively shown to have arisen subsequent to landing; except as hereinafter provided, any alien who is hereafter sentenced to imprisonment for a term of one year or more because of conviction in this country of a crime involving moral turpitude, committed within five years after the entry of the alien to the United States; any alien who shall be found an inmate of or connected with the management of a house of prostitution or practicing prostitution after such alien shall have entered the United States, or who shall receive, share in, or derive benefit from any part of the earnings of any prostitute; any alien who manages or is employed by, in, or in connection with any house of prostitution or music or dance hall or other place of amusement or resort

habitually frequented by prostitutes, or where prostitutes gather, or who in any way assists any prostitute or protects or promises to protect from arrest any prostitute; any alien who shall import or attempt to import any person for the purpose of prostitution or for any other immoral purpose; any alien who, after being excluded and deported or arrested and deported as a prostitute, or as a procurer, or as having been connected with the business of prostitution or importation for prostitution or other immoral purposes in any of the ways hereinbefore specified, shall return to and enter the United States; any alien convicted and imprisoned for a violation of any of the provisions of section four hereof; at any time within three years after entry, any alien who shall have entered the United States by water at any time or place other than as designated by immigration officials, or by land at any place other than one designated as a port of entry for aliens by the Commissioner General of Immigration, or at any time not designated by immigration officials, or who enters without inspection, shall, upon the warrant of the Secretary of Labor, be taken into custody and deported: *Provided*, That, for the purposes of this Act, the marriage to an American citizen of a female of the sexually immoral classes the exclusion or deportation of which is prescribed by this Act shall not invest such female with United States citizenship: *Provided further*, That the provision of this section respecting the deportation of aliens convicted of a crime involving moral turpitude shall not apply to one who has been pardoned, nor shall such deportation be made or

directed if the court sentencing such alien for such crime shall, at the time of imposing judgment or passing sentence, make a recommendation to the Secretary of Labor that such alien shall not be deported in pursuance of this Act; nor shall any alien convicted as aforesaid be deported until after the termination of his imprisonment: *Provided further*, That the provisions of this section, with the exceptions hereinbefore noted, shall be applicable to the classes of aliens therein mentioned irrespective of the time of their entry into the United States: *Provided further*, That the provisions of this section shall also apply to the cases of aliens who come to the mainland of the United States from the insular possessions thereof: *Provided further*, That any person who shall be arrested under the provisions of this section, on the ground that he has entered or been found in the United States in violation of any other law thereof which imposes on such person the burden of proving his right to enter or remain, and who shall fail to establish the existence of the right claimed, shall be deported to the place specified in such other law. In every case where any person is ordered deported from the United States under the provision of this Act, or of any law or treaty now existing, the decision of the Secretary of Labor shall be final.

SEC. 20. That the deportation of aliens provided for in this Act shall, at the option of the Secretary of Labor, be to the country whence they came or to the foreign port at which such aliens embarked for the United States; or, if such embarkation was for foreign contiguous territory, to the foreign

port at which they embarked for such territory; or, if such aliens entered foreign contiguous territory from the United States and later entered the United States, or if such aliens are held by the country from which they entered the United States not to be subjects or citizens of such country, and such country refuses to permit their reentry, or imposes any condition upon permitting reentry, then to the country of which such aliens are subjects or citizens, or to the country in which they resided prior to entering the country from which they entered the United States. If deportation proceedings are instituted at any time within five years after the entry of the alien, such deportation, including one-half of the entire cost of removal to the port of deportation, shall be at the expense of the contractor, procurer, or other person by whom the alien was unlawfully induced to enter the United States, or, if that can not be done, then the cost of removal to the port of deportation shall be at the expense of the appropriation for the enforcement of this Act, and the deportation from such port shall be at the expense of the owner or owners of such vessels or transportation line by which such aliens respectively came, or, if that is not practicable, at the expense of the appropriation for the enforcement of this Act. If deportation proceedings are instituted later than five years after the entry of the alien, or, if the deportation is made by reason of causes arising subsequent to entry, the cost thereof shall be payable from the appropriation for the enforcement of this Act. A failure or refusal on the part of the masters,

agents, owners, or consignees of vessels to comply with the order of the Secretary of Labor to take on board, guard safely, and transport to the destination specified any alien ordered to be deported under the provisions of this Act shall be punished by the imposition of the penalties prescribed in section eighteen of this Act: *Provided*, That when in the opinion of the Secretary of Labor the mental or physical condition of such alien is such as to require personal care and attendance, the said Secretary shall when necessary employ a suitable person for that purpose, who shall accompany such alien to his or her final destination, and the expense incident to such service shall be defrayed in like manner. Pending the final disposal of the case of any alien so taken into custody, he may be released under a bond in the penalty of not less than $500 with security approved by the Secretary of Labor, conditioned that such alien shall be produced when required for a hearing or hearings in regard to the charge upon which he has been taken into custody, and for deportation if he shall be found to be unlawfully within the United States.

SEC. 21. That any alien liable to be excluded because likely to become a public charge or because of physical disability other than tuberculosis in any form or a loathsome or dangerous contagious disease may, if otherwise admissible, nevertheless be admitted in the discretion of the Secretary of Labor upon the giving of a suitable and proper bond or undertaking, approved by said Secretary, in such amount and containing such conditions as he may prescribe, to the United States and to all States, Territories, counties, towns, municipalities, and districts thereof, holding the United States and all States, Territories, counties, towns, municipalities, and districts thereof harmless against such alien becoming a public charge. In lieu of such bond, such alien may deposit in cash with the Secretary of Labor such amount as the Secretary of Labor may require, which amount shall be deposited by said Secretary in the United States Postal Savings Bank, a receipt therefor to be given the person furnishing said sum, showing the fact and object of its receipt and such other information as said Secretary may deem advisable. All accruing interest on said deposit during the same time shall be held in the United States Postal Savings Bank and is to be paid to the person furnishing the sum for deposit. In the event of such alien becoming a public charge, the Secretary of Labor shall dispose of said deposit in the manner as if same had been collected under a bond as provided in this section. In the event of the permanent departure from the United States, the naturalization, or the death of such alien, the said sum shall be returned to the person by whom furnished, or to his legal representatives. The admission of such alien shall be a consideration for the giving of such bond, undertaking, or a cash deposit. Suit may be brought thereon in the name and by the proper law officers either of the United States Government or of any State, Territory, District, county, town, or municipality in which such alien becomes a public charge.

SEC. 22. That whenever an alien shall have been naturalized or shall have taken up his permanent residence in this

country and shall have filed his declaration of intention to become a citizen, and thereafter shall send for his wife or minor children to join him, and said wife or any of said minor children shall be found to be affected with any contagious disorder, such wife or minor children shall be held, under such regulations as the Secretary of Labor shall prescribe, until it shall be determined whether the disorder will be easily curable or whether they can be permitted to land without danger to other persons; and they shall not be either admitted or deported until such facts have been ascertained; and if it shall be determined that the disorder is easily curable and the husband or father or other responsible person is willing to bear the expense of the treatment, they may be accorded treatment in hospital until cured and then be admitted, or if it shall be determined that they can be permitted to land without danger to other persons, they may, if otherwise admissible, thereupon be admitted: *Provided*, That if the person sending for wife or minor children is naturalized, a wife to whom married or a minor child born subsequent to such husband or father's naturalization shall be admitted without detention for treatment in hospital, and with respect to a wife to whom married or a minor child born prior to such husband or father's naturalization the provisions of this section shall be observed, even though such person is unable to pay the expense of treatment, in which case the expense shall be paid from the appropriation for the enforcement of this Act.

SEC. 23. That the Commissioner General of Immigra-

tion shall perform all his duties under the direction of the Secretary of Labor. Under such direction he shall have charge of the administration of all laws relating to the immigration of aliens into the United States, and shall have the control, direction, and supervision of all officers, clerks, and employees appointed thereunder; he shall establish such rules and regulations, prescribe such forms of bond, reports, entries, and other papers, and shall issue from time to time such instructions not inconsistent with law, as he shall deem best calculated for carrying out the provisions of this Act and for protecting the United States and aliens migrating thereto from fraud and loss, and shall have authority to enter into contract for the support and relief of such aliens as may fall into distress or need public aid, and to remove to their native country, at any time within three years after entry, at the expense of the appropriations for the enforcement of this Act, such as fall into distress or need public aid from causes arising subsequent to their entry and are desirous of being so removed; he shall prescribe rules for the entry and inspection of aliens along the borders of or coming to the United States from or through Canada and Mexico, so as not unnecessarily to delay, impede, or annoy persons in ordinary travel between the United States and said countries, and shall have power to enter into contracts with transportation lines for the said purpose; it shall be the duty of the Commissioner General of Immigration to detail officers of the Immigration Service from time to time as may be necessary, in his judgment, to secure information as to the

number of aliens detained in the penal, reformatory, and charitable institutions (public and private) of the several States and Territories, the District of Columbia, and other territory of the United States, and to inform the officers of such institutions of the provisions of law in relation to the deportation of aliens who have become public charges. He may, with the approval of the Secretary of Labor, whenever in his judgment such action may be necessary to accomplish the purposes of this Act, detail immigration officers, and also surgeons of the United States Public Health Service employed under this Act for service in foreign countries. The duties of commissioners of immigration and other immigration officials in charge of districts, ports, or stations shall be of an administrative character, to be prescribed in detail by regulations prepared under the direction or with the approval of the Secretary of Labor: *Provided,* That no person, company, or transportation line engaged in carrying alien passengers for hire from Canada or Mexico to the United States, whether by land or water, shall be allowed to land any such passengers in the United States without providing suitable and approved landing stations, conveniently located, at the point or points of entry. The Commissioner General of Immigration is hereby authorized and empowered to prescribe the conditions, not inconsistent with law, under which the above-mentioned landing stations shall be deemed suitable within the meaning of this section. Any person, company, or transportation line landing an alien passenger in the United States without compliance with the requirement here-

in set forth shall be deemed to have violated section eight of this Act, and upon conviction shall be subject to the penalty therein prescribed: *Provided further,* That for the purpose of making effective the provisions of this section relating to the protection of aliens from fraud and loss, and also the provisions of section thirty of this Act, relating to the distribution of aliens, the Secretary of Labor shall establish and maintain immigrant stations at such interior places as may be necessary, and, in the discretion of the said Secretary, aliens in transit from ports of landing to such interior stations shall be accompanied by immigrant inspectors: *Provided further,* That in prescribing rules and making contracts for the entry and inspection of aliens applying for admission from or through foreign contiguous territory, due care shall be exercised to avoid any discriminatory action in favor of foreign transportation companies transporting to such territory aliens destined to the United States, and all such transportation companies shall be required, as a condition precedent to the inspection or examination under such rules and contracts at the ports of such contiguous territory of aliens brought thereto by them, to submit to and comply with all the requirements of this Act which would apply were they bringing such aliens directly to seaports of the United States, and, from and after the taking effect of this Act, no alien applying for admission from foreign contiguous territory shall be permitted to enter the United States unless upon proving that he was brought to such territory by a transportation company which had submitted

to and complied with all the requirements of this Act, or that he entered such territory more than two years prior to the date of his application for admission to the United States.

SEC. 24. That immigrant inspectors and other immigration officers, clerks, and employees shall hereafter be appointed and their compensation fixed and raised or decreased from time to time by the Secretary of Labor, upon the recommendation of the Commissioner General of Immigration and in accordance with the provisions of the civil-service Act of January sixteenth, eighteen hundred and eighty-three: *Provided,* That said Secretary, in the enforcement of that portion of this Act which excludes contract laborers and induced and assisted immigrants, may employ, for such purposes and for detail upon additional service under this Act when not so engaged, without reference to the provisions of the said civil-service Act, or to the various Acts relative to the compilation of the Official Register, such persons as he may deem advisable and from time to time fix, raise, or decrease their compensation. He may draw annually from the appropriation for the enforcement of this Act $100,000, or as much thereof as may be necessary, to be expended for the salaries and expenses of persons so employed and for expenses incident to such employment; and the accounting officers of the Treasury shall pass to the credit of the proper disbursing officer expenditures from said sum without itemized account whenever the Secretary of Labor certifies that an itemized account would not be for the best interests

of the Government: *Provided further,* That nothing herein contained shall be construed to alter the mode of appointing commissioners of immigration at the several ports of the United States as provided by the sundry civil appropriation Act approved August eighteenth, eighteen hundred and ninety-four, or the official status of such commissioners heretofore appointed.

SEC. 25. That the district courts of the United States are hereby invested with full jurisdiction of all causes, civil and criminal, arising under any of the provisions of this Act. That it shall be the duty of the United States district attorney of the proper district to prosecute every such suit when brought by the United States under this Act. Such prosecutions or suits may be instituted at any place in the United States at which the violation may occur or at which the person charged with such violation may be found. That no suit or proceeding for a violation of the provisions of this Act shall be settled, compromised, or discontinued without the consent of the court in which it is pending, entered of record, with the reasons therefor.

SEC. 26. That all exclusive privileges of exchanging money, transporting passengers or baggage, or keeping eating houses, and all other like privileges in connection with any United States immigrant station, shall be disposed of to the lowest responsible and capable bidder, after public competition, notice of such competitive bidding having been made in two newspapers of general circulation for a period of two weeks, subject to such conditions and limitations as

the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Labor, may prescribe, and all receipts accruing from the disposal of such exclusive privileges shall be paid into the Treasury of the United States. No such contract shall be awarded to an alien. No intoxicating liquors shall be sold at any such immigration station.

SEC. 27. That for the preservation of the peace and in order that arrests may be made for crimes under the laws of the States and Territories of the United States where the various immigrant stations are located, the officers in charge of such stations, as occasion may require, shall admit therein the proper State and municipal officers charged with the enforcement of such laws, and for the purpose of this section the jurisdiction of such officers and of the local courts shall extend over such stations.

SEC. 28. That any person who knowingly aids or assists any anarchist or any person who believes in or advocates the overthrow by force or violence of the Government of the United States, or who disbelieves in or is opposed to organized government, or all forms of law, or who advocates the assassination of public officials, or who is a member of or affiliated with any organization entertaining or teaching disbelief in or opposition to organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character, to enter the United States, or who connives or conspires with any person or persons to allow, procure, or permit any such anarchist or person aforesaid to enter therein, shall be deemed guilty of a felony, and on conviction thereof shall be punished by a fine of not more than $5,000 or by imprisonment for not more than five years, or both.

Any person who knowingly aids or assists any alien who advocates or teaches the unlawful destruction of property to enter the United States shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than $1,000, or by imprisonment for not more than six months, or by both such fine and imprisonment.

SEC. 29. That the President of the United States is authorized, in the name of the Government of the United States, to call, in his discretion, an international conference, to assemble at such point as may be agreed upon or, to send special commissioners to any foreign country, for the purpose of regulating by international agreement, subject to the advice and consent of the Senate of the United States, the immigration of aliens to the United States; of providing for the mental, moral, and physical examination of such aliens by American consuls or other officers of the United States Government at the ports of embarkation, or elsewhere; of securing the assistance of foreign Governments in their own territories to prevent the evasion of the laws of the United

States governing immigration to the United States; of entering into such international agreements as may be proper to prevent the immigration of aliens who, under the laws of the United States, are or may be excluded from entering the United States, and of regulating any matters pertaining to such immigration.

SEC. 30. That there shall be maintained a division of information in the Bureau of Immigration; and the Secretary of Labor shall provide such clerical and other assistance as may be necessary. It shall be the duty of said division to promote a beneficial distribution of aliens admitted into the United States among the several States and Territories desiring immigration. Correspondence shall be had with the proper officials of the States and Territories, and said division shall gather from all available sources useful information regarding the resources, products, and physical characteristics of each State and Territory, and shall publish such information in different languages and distribute the publications among all admitted aliens at the immigrant stations of the United States and to such other persons as may desire the same. When any State or Territory appoints and maintains an agent or agents to represent it at any of the immigrant stations of the United States, such agents shall, under regulations prescribed by the Commissioner General of Immigration, subject to the approval of the Secretary of Labor, have access to aliens who have been admitted

to the United States for the purpose of presenting, either orally or in writing, the special inducements offered by such State or Territory to aliens to settle therein. While on duty at any immigrant station such agents shall be subject to all the regulations prescribed by the Commissioner General of Immigration, who, with the approval of the Secretary of Labor, may, for violation of any such regulations, deny to the agent guilty of such violation any of the privileges herein granted.

SEC. 31. That any person, including the owner, agent, consignee, or master of any vessel arriving in the United States from any foreign port or place, who shall knowingly sign on the ship's articles, or bring to the United States as one of the crew of such vessel, any alien, with intent to permit such alien to land in the United States in violation of the laws and treaties of the United States regulating the immigration of aliens, or who shall falsely and knowingly represent to the immigration authorities at the port of arrival that any such alien is a bona fide member of the crew, shall be liable to a penalty not exceeding $5,000, for which sum the said vessel shall be liable and may be seized and proceeded against by way of libel in any district court of the United States having jurisdiction of the offense.

SEC. 32. That no alien excluded from admission into the United States by any law, agreement, convention, or treaty of the United States regulating the immigration of aliens, and employed on board any vessel arriving in the United States from any foreign port or place, shall be permitted to land

in the United States, except temporarily for medical treatment, or pursuant to regulations prescribed by the Secretary of Labor providing for the ultimate removal or deportation of such alien from the United States, and the negligent failure of the owner, agent, consignee, or master of such vessel to detain on board any such alien after notice in writing by the immigration officer in charge at the port of arrival, and to deport such alien, if required by such immigration officer or by the Secretary of Labor, shall render such owner, agent, consignee, or master liable to a penalty not exceeding $1,000, for which sum the said vessel shall be liable, and may be seized and proceeded against by way of libel in any district court of the United States having jurisdiction of the offense.

SEC. 33. That it shall be unlawful and be deemed a violation of the preceding section to pay off or discharge any alien employed on board any vessel arriving in the United States from any foreign port or place, unless duly admitted pursuant to the laws and treaties of the United States regulating the immigration of aliens: *Provided*, That in case any such alien intends to reship on board any other vessel bound to any foreign port or place, he shall be allowed to land for the purpose of so reshipping, under such regulations as the Secretary of Labor may prescribe to prevent aliens not admissible under any law, agreement, convention, or treaty from remaining permanently in the United States, and may be paid off, discharged, and permitted to remove his effects, anything in such laws or treaties or in this Act to the contrary notwithstanding, provided due notice of such proposed action

first be given by the master or the seaman himself to the principal immigration officer in charge at the port of arrival.

SEC. 34. That any alien seaman who shall land in a port of the United States contrary to the provisions of this Act shall be deemed to be unlawfully in the United Sates, and shall, at any time within three years thereafter, upon the warrant of the Secretary of Labor, be taken into custody and brought before a board of special inquiry for examination as to his qualifications for admission to the United States, and if not admitted said alien seaman shall be deported at the expense of the appropriation for this Act as provided in section twenty of this Act.

SEC. 35. That it shall be unlawful for any vessel carrying passengers between a port of the United States and a port of a foreign country, upon arrival in the United States, to have on board employed thereon any alien afflicted with idiocy, imbecility, insanity, epilepsy, tuberculosis in any form, or a loathsome or dangerous contagious disease, if it appears to the satisfaction of the Secretary of Labor, from an examination made by a medical officer of the United States Public Health Service, and is so certified by such officer, that any such alien was so afflicted at the time he was shipped or engaged and taken on board such vessel and that the existence of such affliction might have been detected by means of a competent medical examination at such time; and for every such alien so afflicted on board any such vessel at the time of arrival the owner, agent, consignee or master thereof shall pay to the collector of customs of the customs district in which

the port of arrival is located the sum of $50, and pending departure of the vessel the alien shall be detained and treated in hospital under supervision of immigration officials at the expense of the vessel; and no vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine and while it remains unpaid: *Provided*, That clearance may be granted prior to the determination of such question upon the deposit of a sum sufficient to cover such fine: *Provided further*, That such fine may, in the discretion of the Secretary of Labor, be mitigated or remitted.

SEC. 36. That upon arrival of any vessel in the United States from any foreign port or place it shall be the duty of the owner, agent, consignee, or master thereof to deliver to the principal immigration officer in charge of the port of arrival lists containing the names of all aliens employed on such vessel, stating the positions they respectively hold in the ship's company, when and where they were respectively shipped or engaged, and specifying those to be paid off and discharged in the port of arrival; or lists containing so much of such information as the Secretary of Labor shall by regulation prescribe; and after the arrival of any such vessel it shall be the duty of such owner, agent, consignee, or master to report to such immigration officer, in writing, as soon as discovered, all cases in which any such alien has illegally landed from the vessel, giving a description of such alien, together with any information likely to lead to his apprehension; and before the departure of any such vessel it shall be the duty

of such owner, agent, consignee, or master to deliver to such immigration officer a further list containing the names of all alien employees who were not employed thereon at the time of the arrival but who will leave port thereon at the time of her departure, and also the names of those, if any, who have been paid off and discharged, and of those, if any, who have deserted or landed; and in case of the failure of such owner, agent, consignee, or master so to deliver either of the said lists of such aliens arriving and departing, respectively, or so to report such cases of desertion or landing, such owner, agent, consignee, or master shall, if required by the Secretary of Labor, pay to the collector of customs of the customs district in which the port of arrival is located the sum of $10 for each alien concerning whom correct lists are not delivered or a true report is not made as above required; and no such vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine, and, in the event such fine is imposed, while it remains unpaid; nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such question upon deposit of a sum sufficient to cover such fine.

SEC. 37. That the word "person" as used in this Act shall be construed to import both plural and the singular, as the case may be, and shall include corporations, companies, and associations. When construing and enforcing the provisions of this Act, the act, omission, or failure of any director,

officer, agent, or employee of any corporation, company, or association acting within the scope of his employment or office shall in every case be deemed to be the act, omission, or failure of such corporation, company, or association, as well as that of the person acting for or in behalf of such corporation, company, or association.

SEC. 38. That this Act, except as otherwise provided in section three, shall take effect and be enforced on and after July first, nineteen hundred and sixteen. The Act of March twenty-sixth, nineteen hundred and ten, amending the Act of February twentieth, nineteen hundred and seven, to regulate the immigration of aliens into the United States; the Act of February twentieth, nineteen hundred and seven, to regulate the immigration of aliens into the United States, except section thirty-four thereof; the Act of March third, nineteen hundred and three, to regulate the immigration of aliens into the United States, except section thirty-four thereof; and all other Acts and parts of Acts inconsistent with this Act are hereby repealed on and after the taking effect of this Act: *Provided,* That this Act shall not be construed to repeal, alter, or amend existing laws relating to the immigration or exclusion of Chinese persons or persons of Chinese descent, except as provided in section nineteen hereof, nor to repeal, alter, or amend section six, chapter four hundred and fifty-three, third session Fifty-eighth Congress, approved February sixth, nineteen hundred and five, or the Act approved August second, eighteen hundred and eighty-two, entitled "An Act to regulate the carriage of passengers by

sea," and amendments thereto: *Provided further,* That nothing contained in this Act shall be construed to affect any prosecution, suit, action, or proceedings brought, or any act, thing, or matter, civil or criminal, done or existing at the time of the taking effect of this Act, except as mentioned in the third proviso of section nineteen hereof; but as to all such prosecutions, suits, actions, proceedings, acts, things, or matters, the laws or parts of laws repealed or amended by this Act are hereby continued in force and effect.

附屬書第六十五號 「バーネット」法案 (H. R. 10384) ニ關スル在米大使口上書

Imperial Japanese Embassy,
Washington.

There have been introduced in both Houses of Congress at its present session numerous bills relating to the regulation of immigration. Those that involve questions affecting the rights of Japanese subjects may be roughly divided into two categories, to wit:—

1. Bills aiming avowedly or impliedly at the exclusion of Asiatic immigrants (H.R. 363, H.R. 6062, H.R. 6084, H.R. 303, H.R. 6049).

2. Bills relating to the regulation of general immigration (S. 383, S. 3195, H.R. 558, H.R. 564, H.R. 3561, H.R. 6421, H.R. 6879, H.R. 10384).

That the bills mentioned under the first category would, if enacted, be in direct contravention of the treaty between Japan and the United States, in so far as the rights of Japanese subjects would be affected thereby, is so patent that any discussion thereon is deemed superfluous.

As regards the bills mentioned under the second category, H.R. 10384, introduced by Representative Burnett and reported to the House of Representatives by the Chairman

of the House Committee on Immigration and Naturalization on January 31, 1916, may be looked upon as a representative bill and is, in any case, one that calls for discussion at the present juncture. Therefore, the Japanese Ambassador begs to call special attention of the Honorable the Secretary of State to several important features in that bill, reserving for future examination the various other bills included under the same category.

The sections, pages and lines given below are those of H.R. 10384 as reported to the House of Representatives (H.R. Report No. 95).

I. Eligibility to Citizenship as Test for Admissibility of Aliens.

Section 3:—page 7, lines 2-7.

(That the following classes of aliens shall be excluded from admission into the United States:)..
.....persons who can not become eligible, under existing law, to become citizens of the United States by naturalization, unless otherwise provided for by existing agreements as to passports, or by existing treaties, conventions, or agreements or by treaties, conventions, or agreement that may hereafter be entered into.

In connection with the above clause, the Japanese Ambassador fully appreciates the modification of the wording in the exception clause beginning with the word "unless", and shares the opinion of the Honorable the Secretary of State that the wording as it now stands in the above quotation

"obviates any possibility of the misunderstanding of its meaning," in that it unequivocally excepts and safeguards the treaty rights of Japanese subjects.

It should be observed, however, that the provision under consideration retains its original formula of adopting the eligibility to citizenship as a general test in determining the admissibility of aliens into the United States. On this point, the Japanese Government are constrained, as a matter of principle, still to adhere to the attitude hitherto taken. Instead of repeating, in this connection, what has been fully represented in the past, the Japanese Ambassador begs to refer the Honorable the Secretary of State to the whole of Appendix A and to the statements under I in Appendix B, the excerpts from the Aide Memoire of February 26, 1914, and the Paper containing the Ambassador's observations on the Burnett Bill, H.R. 6060, 63rd Congress, both of which were handed on the above date to Mr. Bryan, then Secretary of State.

In supplement of these excerpts and in support of the Japanese Government's continued adherence to their past attitude on this point, it should be noted that the present Commercial Treaty between Japan and the United States, in reciprocally guaranteeing to the subjects or citizens of the two countries the liberty of entrance, took for granted the principle of international law on this point. It lays down the liberty of entrance as a fundamental rule, and Japanese subjects are enjoying the rights in this respect not as a matter of exception or sufference, but as a matter of right and

principle. The clause under consideration reverses this point in so far as it implies the accordance to Japanese subjects of the liberty of entrance only as a matter of exception. It subverts the fundamental principle of international law on which the treaty stipulation in question is based, as well as the spirit of the treaty stipulation itself.

II. Exemption from Illiteracy Test.

Section 3:—page 9, lines 4-9.

> (That the following classes of persons shall be exempt from the operation of the illiteracy test, to wit:) all aliens who have been lawfully admitted to the United States and who have resided therein continuously for five years, and who have in accordance with the law declared their intention of becoming citizens of the United States and who return to the United States within six months from the date of their departure therefrom.

Reasons for objection to the above clause are the same as those set forth under II—(B) in Appendix B.

It is hoped that the part underscored may be eliminated, as was done with regard to a clause containing similar discrimination in connection with the imposition of entrance tax provided for in the first part of Section 2.

III. Discrimination in According Discretionary Treatment to Returning Aliens.

Section 3:—page 10, line 23—page 11, line 3, *Provided further,* That aliens who have declared their intention to become citizens, and aliens returning after a tem-

porary absence to an unrelinquished United States domicile of seven consecutive years, may be admitted in the discretion of the Secretary of Labor, and under such conditions as he may prescribe.

With regard to the above clause, an excerpt from the Paper containing the Ambassador's observations on the Burnett Bill in the form it passed the Senate on January 2, 1915, 63rd Congress, which was handed to Mr. Bryan on January 9, 1915, is attached hereto as Appendix C. There can be little doubt that the modification suggested in the above paper would render the clause more consonant with the humane purpose held in mind by the Senate Committee on Immigration in introducing the proviso in its original form, as is clearly evidenced by a passage in the report of the Chairman of that Committee, which is quoted in Appendix C.

Particularly there seems to be little reason for adding a further condition in the case of returning aliens who have not or can not declare intention to become citizens of the United States, by the insertion of the words "of seven consecutive years" after the word "domicile". These words were not in the text of the proviso as originally introduced by the Senate Committee a year ago in the previous Congress and their insertion makes the discrimination complained of still more emphatic. So long as an alien is returning to an *unrelinquished* domicile in this country, there seems to be hardly any reason why that unrelinquished domicile should be further conditioned with an arbitrary length of time. It is earnestly

hoped that, in any case, the new insertion may be eliminated.

IV. Special Regulation anent Students and Other Applying for Temporary Admission.

Section 3:—page 11, lines 18-23.

Provided further, That the Commissioner General of Immigration with the approval of the Secretary of Labor shall issue rules and prescribe conditions, including exaction of such bonds as may be necessary to control and regulate the admission and return of students and others applying for temporary admission.

It is believed that the above proviso can only, and in fact does, relate to the students and others applying for temporary admission who belong to the excepted classes of those aliens who are as a rule barred from this country (Sec. 3:—page 7, lines 7-20). However, the place of insertion being so far removed from the clauses that contain main provisions relating to the excepted classes above referred to, and the wording of the proviso being in itself unqualified, some chance, however slight, for dissenting on the point may be said to exist. It is submitted that the place of insertion be changed and the proviso in question be inserted immediately after the sentence that ends with the word "Act" in line 20, page 7.

V. Discrimination in According Discretionary Treatment to the Wives and Minor Children of Aliens Settled in the United States.

Section 22:—page 45, line 21—page 46, line 24.

Objection to the above section is the same as that set

forth under II—(C) in Appendix B, and is based upon the same contention that underlies the objections under II and III above. It is difficult to conceive of any just ground for objection to a modification in the wording of the section with a view to making it possible to extend the humane treatment to the wives and minor children of those permanent alien residents in this country, whose eligibility to the United States citizenship is, from no cause of their own making or seeking, either denied or questioned.

As regards many of the features in the Bill that may be looked upon as in contravention of Article I of the Commercial Treaty between Japan and the United States, in so far as they affect the basic principle of mutual and equal treatment of the subjects or citizens of the two countries upon the national footing in the matter of according the liberty of entrance, travel and residence, discussion is reserved.

February 23, 1916,
Washington, D.C.

APPENDIX A

EXCERPT FROM THE AIDE MEMOIRE OF FEBRUARY 26, 1914.

II. *Eligibility to Citizenship.*

Many of the bills adopt a clause refusing admission into the United States of "persons who can not become eligible

under existing law to become citizens of the United States by naturalization, unless otherwise provided for by existing agreements as to passports or by treaties, convention, or agreements that may hereafter be entered into" (S. 50, S. 2406, S. 2453, H.R. 1958, H.R. 5973, H.R. 6060). Assuming that Japanese subjects are, under the existing laws of the United States, ineligible to citizenship, it is to be construed that this provision excludes as a rule Japanese subjects from admission into the United States, and, in this respect, the same conclusion as stated under (I) applies with equal force to the above provision. (The conclusion under (I) as follows:—the.....legislation has undeniably in view the abridgment of Japanese subjects to enter, travel and reside in the territories of the United States, and it will be needless to point out that such provisions are clearly in disregard of the express assurances in Article I of the Japanese American Commercial Treaty of 1911.) The contention of the Imperial Government upon this point will be supported with stronger emphasis, when the subject is considered conjointly with the circumstances connected with the final agreement on the Article above invoked.

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* *

Moreover, it appears regrettable that the eligibility to citizenship should be taken as a general test in determining the admissibility of aliens into the United States, and that the Japanese should, as a rule, be denied the hospitality

granted to any European people, in absence of special international agreements. It is understood that the test now proposed owes its inception to the measure known as the Dillingham-Burnett Bill, which passed the last Congress, but which was vetoed by the President, and it will be remembered that that Bill was invoked by the supporters of the California alien land law in justification of the formula drawing distinction between eligible and non-eligible aliens. Accordingly, the adoption of such a test in the federal laws would be extremely unfortunate, not only because of unfair discrimination which it implies in itself, but on account of its possible influence upon future legislation in various States of the Union.

APPENDIX B

EXCERPTS FROM THE PAPER CONTAINING THE JAPANESE AMBASSADOR'S OBSERVATIONS ON BURNETT BILL, H.R. 6060, 63RD CONGRESS, HANDED TO MR. BRYAN ON FEBRUARY 26, 1914.

I. *Japanese Exclusion Under Formula of "Ineligibility".*

Section 3—page 6, line 23—page 7, line 1. "persons who can not become eligible, under existing law, to become citizens of the United States by naturalization, unless otherwise provided for by existing agreements as to passports, or by treaties, conventions, or agreements that may hereafter be entered into."

This provision excludes formally and as a rule Japanese subjects from admission into the United States, presuming in this connection that the Japanese is debarred under the existing law from acquiring citizenship of the United States. Such exclusion is, in the opinion of the Japanese Government, regarded as a direct violation of Article I of the Japanese-American Treaty of 1911, which expressly guarantees the liberty of Japanese subjects to enter, travel and reside in the territories of this country. In order to explain fully the position of the Japanese Government on this point, your special attention is invited to that particular phase of discussion, which formed an important and distinct feature of the negotiations leading to the conclusion of the Treaty of 1911, and which resulted in eliminating from Article I above invoked a certain proviso regarding immigration legislation, contained, in the same connection, in the Treaty of 1894. It is a well known fact that the Japanese Government placed a specially great importance on the elimination of this proviso in the new treaty and was willing to make concessions on other points before the Article in question was agreed upon in its present form. It is to be understood distinctly that, in insisting upon this point, Japan did not, as she does not now, entertain any ulterior object, and was guided, as she is now, by the sole and sincere desire to avert the indignity of being discriminated against in immigration legislation in the United States, as the solemn declaration attached to the new treaty abundantly shows. In the light of these facts, I fail entirely to see any justifi-

cation, or necessity, for such statutory exclusion as contemplated apparently by the proposed legislation in utter disregard and nullification of the spirit in which mutual agreement on Article I was ultimately arrived at.

*

* *

Again, it appears extremely regrettable that the eligibility to citizenship should be taken as general test in determining the admissibility of aliens into the United States, and that the Japanese should, as a rule, be denied the hospitality granted to any European people, in the absence of special international agreements. Moreover, the adoption of such test in a Federal legislation is, it appears to me, irreconcilable with the just attitude taken by the President and the Federal Government on this particular point, in connection with the California land legislation. In this connection it is to be recalled that the Bill was invoked by the supporters of the California alien land law in justification of the formula drawing distinction between eligible and non-eligible aliens. Accordingly, the adoption of such test in the Federal laws would be extremely unfortunate, not only because of unfair discrimination that it implies in itself, but on account of its possible influence upon future legislation in various States of the Union.

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* *

II. *Discriminatory Treatment Based on Eligibility and Ineligibility.*

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(B) Exemption from Illiteracy Test.

Section 3—page 8, lines 21-25.

"(That the following classes of persons shall be exempt from the operation of the Illiteracy test, to wit:) all aliens who have been lawfully admitted to the United States and who have resided therein continuously for five years, and who have in accordance with the law declared their intention of becoming citizens of the United States."

The conclusion under (A) (that is, that it will practically operate in discrimination against the Japanese, who are apparently unauthorized in this country to make such declaration, assuming, of course, that they are ineligible under the existing laws of the United States) will apply with equal force. The practical consequence flowing from this provision is to be noted, that the Japanese subjects shall have to submit themselves to the illiteracy test on each and every occasion of entrance or of return, for no other reason than their inability to declare intention to become citizens of this country, and that one who had passed the test satisfactorily on a prior occasion of entrance may happen to fail the test and be refused entrance on another occasion, when one might be returning from a temporary visit abroad to resume and continue his more or less permanent residence

in this country, while the eligible aliens would never be subjected to such risk. In this connection, it should be borne in mind that the results of the test depend, to no small extent, on the individual disposition or frame of mind of the examiners. The shadow of uncertainty and anxiety resulting from such discrimination will strongly influence the conduct of the Japanese settlers in this country, and will result in practically limiting the freedom of their movements and of acquiring and disposing of the properties. It is hard to find any reason for placing the Japanese settled in this country in such a prejudicial position, simply on account of their inability to declare intention to become citizens of the United States. Even granting that the discrimination against certain class of aliens as to eligibility is justifiable, it is the violation of every reason and the sense of fairness to prescribe one's freedom to such an extent only on that score.

(C) Discretionary Treatment Accorded to the Wives and Minor Children of the Aliens Settled in the United States.

Section 22—page 43, line 17—page 44, line 9.

The provisions of this Section will not operate in favor of the wives and children of the Japanese settled in this country, as the humane allowances provided therein for the wives and minor children affected with contagious disorder is made dependent upon the filing of one's "declaration of intention to become a citizen" of the United States (vide page 43, lines 18-19).

APPENDIX C

EXCERPT FROM THE PAPER CONTAINING THE JAPANESE AMBASSADOR'S OBSERVATIONS ON BURNETT BILL H.R. 6060, 63RD CONGRESS, AS PASSED THE SENATE JANUARY 2, 1915, HANDED TO MR. BRYAN ON JANUARY 9, 1915.

(3) Section 3, page 11, lines 20-25.

Provided further, That aliens who have declared their intention to become citizens and aliens returning after temporary absence to an unrelinquished United States domicile may be admitted in the discretion of the Secretary of Labor, and under such conditions as he may prescribe:

Strike out the words underscored, so as to read:

Provided further, That aliens returning after temporary absence, etc., etc.,

Objection to this provision is in the main the same as one raised under (2) above (that it implies an unfair and unreasonable discrimination against the Japanese when there is no occasion whatever for it). Discrimination in this case lies in the fact that while there is no further condition attaching to the aliens who have declared their intention to become citizens, there are three conditions attached to those aliens who have not done so, viz. (1) "returning" (2) "after temporary absence" (3) "to an unrelinquished

United States domicile", in order to be able to avail themselves of the advantage provided in the above proviso.

Besides, the Chairman of the Committee on Immigration of the Senate states in his report on the Bill as follows:

> "As the term 'alien' has been defined in Section 1 of the Act (p. 1, line 3), and construed with reference to the Act of 1903 and 1907 by the Supreme Court (Lapina v. Williams, 232 U.S., 78), it seems only just and humane to invest the Secretary of Labor with authority to permit the readmission to the United States of aliens who have lived here for a long time and whose exclusion after a temporary absence would result in peculiar or unusual hardship." (vide Mr. Smith's Report, March 19, 1914—Senate Report No. 535, page 6.)
>
> (The underscore is mine.)

The spirit in which the above proviso was conceived is very clearly indicated, and, in the light of that spirit, which is primarily of the humane purpose, one fails to see why a discrimination should be made between the two classes of aliens, to say nothing of the question touching upon the treaty rights involved. For, the hardship, the proviso is intended to remove or lighten, would be in no degree different as between the aliens who have declared intention to become citizens of the United States and the aliens who have not. In this connection, it is particularly to be borne in mind that with Japanese subjects the matter of declaring intention to become citizens of the United States is not a matter of choice, assuming that they are ineligible. Bearing

this point in mind and looking at the question from a practical standpoint, the unreasonableness and the hardship involved in the discrimination becomes still more apparent.

附屬書第六十六號　同法案ニ關スル在米大使宛外務大臣訓電

Imperial Japanese Embassy,
Washington.

TELEGRAM FROM BARON ISHII, MINISTER FOR FOREIGN AFFAIRS, TO VISCOUNT CHINDA, RECEIVED APRIL 8, 1916.

The Imperial Government learn with deep feelings of regret and disappointment that the Burnett Immigration Bill, as it passed the House of Representatives, still retains in the main the various points of objection to which they have repeatedly called attention of the United States Government.

The provision in Section 3 of the Bill establishing a general rule of exclusion against aliens ineligible to citizenship of the United States has lately evoked an outburst of adverse public opinion in Japan, inasmuch as the provision in question implies in principle the exclusion of the Japanese as a race, their admission being provided for only as a matter of exception. It is apprehended that the question may further influence the sentiments of the Japanese public to a degree to cause concern for the interest of good relations between the two countries.

In view of the above stated situation, it is deemed necessary that the Imperial Government, while maintaining

objection on all the points hitherto advanced, should at this juncture communicate in a spirit of friendly candor their unreserved views particularly on the said provision, and request the United States Government to give full and fair consideration thereon.

The Imperial Government wish to state frankly that they cannot but object strongly to the adoption of discriminatory rules wherein eligibility to citizenship of the United States or the declaration of intention to acquire such citizenship is made a legal ground for denying to Japanese subjects the enjoyment of those rights to which they are entitled under the Treaty or under the general principles governing the intercourse of nations. The Japanese Government had occasion fully to set forth their views on the above point in connection with the protest against the California land law of 1913 and trust that their position in this respect is well understood by the United States Government.

The Imperial Government have faithfully carried out the terms of the "Gentleman's Agreement" as well as the Declaration of 1911. As the result of their efforts, a complete solution has been given to the so-called immigration question which at one time existed between the two countries, and thereby grounds for fear of Japanese laborers increasing in the United States have been definitely removed. The Japanese Government permit themselves to believe that their fidelity in meeting these international engagements is fully recognized by the United States Government. In the face of these facts, they fail to see any occasion calling for in-

clusion in the Immigration Bill of a provision which, while serving no useful purpose whatever for the United States, is bound to result in hurting the proper sense of self respect of the Japanese nation and in causing it gravely to doubt the friendship of the American people. It should be noted in this connection that the word Hindus has been inserted in the Bill for specific exclusion. This fact, coupled with the existing Chinese exclusion laws specifically referred to in the Bill itself, confirms strongly the conviction of the Imperial Government that the clause under examination may well be eliminated without interfering with the true intent and purpose of the framers of the Bill.

In the knowledge of the Imperial Government, the Asiatic races that have so far actually given rise to a discussion of any moment in the United States are the Japanese, Chinese and Hindus. This fact, taken in connection with the facts already pointed out, that is the specific exclusion of the Chinese and the specific reference to the Hindus for exclusion in the manner proposed in the Bill, is also a complete refutation of the argument that the clause in question was purposely worded in general terms out of consideration for the susceptibilities of the Asiatic races, against whom the rule is directed, other than the Japanese. Its retention in the circumstances will only have the effect of emphasizing the impression that it is specially and in reality aimed at the Japanese. Moreover, it is difficult to see any ground for concern for the susceptibilities of the other Asiatic races, the Japanese excepted, when the Chinese and Hindus are

made the object of exclusion by specific reference and are apparently paid little respect in this regard.

As regards the several provisions containing discrimination based upon the declaration of intention to become citizens of the United States, it suffices to point out that an alien does not any less cease to be such because of a mere declaration of such intention, and that the Imperial Government cannot be persuaded to allow their subjects to be discriminated against in any form, as between aliens, in the enjoyment of their recognized rights.

The Imperial Government trust that the United States Government will fully appreciate the fact that it was after a mature deliberation that the Imperial Government, deeming it highly important in the interest of good relations between the two countries, have decided to approach at this juncture the United States Government in the above candid manner with a view to requesting in the matter their special efforts in a friendly spirit. It is hardly necessary to add that the Imperial Government have not the least thought of interfering with the legislation of another country.

附屬書第六十八號　同案中學生等ノ取締及傳染病治療規定ニ關スル在米大使國務長官間往復文

No. 1.

Imperial Japanese Embassy,
Washington.

April 15, 1916.

My dear Mr. Secretary:

In reading through the copy of your letter to the Chairman of the Senate Committee on Immigration dated the 7th instant which you kindly gave me for my information yesterday, I notice that no reference is made therein to the points set forth under IV and V of the Memorandum I handed you on the 23rd of February last.

I should believe that the suggestion under IV would meet with no difficulty whatever as it relates merely to a change in the place of insertion.

As to the point set forth under V, that is, a modification of Section 22 of the Bill, it would only be in keeping with the other suggestions you had already made in the above letter of yours. The objection against this Section would seem to be removed by a simple process of striking out the words "and shall have filed his declaration of intention to become a citizen", which are found in the beginning of the Section in the third and fourth lines.

I should feel greatly obliged if you would see fit also to take up these two points with the Senate Committee on Immigration.

Believe me,
My dear Mr. Secretary,
Very sincerely yours,
(Signed) S. Chinda.

Honorable Robert Lansing,
Secretary of State.

No. 2.

Department of State,
Washington.

April 20, 1916.

My dear Mr. Ambassador:

Your note of the 15th instant calling attention to your comment upon the Immigration Bill under IV and V of your Memorandum of February 23rd is just received.

After conference with the Secretary of Labor who fully agrees with me, I am of opinion that the comment under IV of your Memorandum shows a misunderstanding of the provision of the Bill to which the Memorandum refers. That pro-

vision is not intended to have particular reference to the excepted classes enumerated in Section 3 of the Bill, but relates to aliens of all races coming to the United States as students or for other temporary purposes. The intent of the Bill appears to be to give the Department of Labor authority to enact regulations which, while facilitating and encouraging the entry for educational purposes of children and young men and women whose homes are in foreign lands, will prevent abuse of the privilege and insure that it is being availed of in good faith.

With respect to your comment under V, I learn that Section 22 of the Bill was drafted to meet a difficulty which grew out of a discussion in the Senate when H.R. 6060 was under discussion in the 63rd Congress. Under that Bill as originally drafted there was a provision at the end of Section 3 which proposed to admit to the United States the wives and minor children of naturalized citizens, irrespective of the mental or physical condition of such wives or children. This clause was deleted and the Senate Committee attempted to fix upon a line of demarcation for immigration purposes between alienage and citizenship in the cases of such wives and children that would be logical and in application practicable. The result was the drafting of this Section 22, which I am disposed to think had better be left undisturbed.

I am, my dear Viscount Chinda,

Very sincerely yours,

(Signed) Robert Lansing.

His Excellency
Viscount Sutemi Chinda,
Japanese Ambassador.

附屬書第七十號　同案ニ關スル大統領宛在米大使覺書

The "Gentleman's Agreement" was made in 1907 by which the Japanese Government undertook to limit and control, entirely in the form of their own voluntary exertion and upon their own responsibility, the emigration of Japanese laborers to the United States. This agreement has been kept faithfully with a result that is well known.

Then in 1911 the revision of the Commercial Treaty between Japan and the United States took place. The paragraph which was found in Article 2 as the last paragraph thereunder of the old treaty and which was struck out from the new treaty of 1911 was as follows:—

> It is, however, understood that the stipulations contained in this and the preceding Article do not in any way affect the laws, ordinances and regulations with regard to ..... the immigration of laborers ..... which are in force or may hereafter be enacted in either of the two countries.

Upon signing the new treaty, the Japanese Ambassador at Washington made the following declaration:—

> In proceeding this day to the signature of the Treaty of Commerce and Navigation between Japan and the United States the undersigned, Japanese Ambassador in Washington, duly authorized by his Government has the honor to declare that the Imperial Japanese Government are fully prepared to maintain with equal effectiveness the limitation and control which they have for the past three years exercised in regulation of the emigration of labourers to the United States.
>
> Y. Uchida.
>
> February 21, 1911.

In the endeavor to have the above paragraph relating to the regulation of immigration eliminated from the new Treaty, the Japanese Government have made sacrifices. The thought underlying it was to see removed anything appearing on the face of a treaty or a law that might give even so much as a hint to a possibility of any discrimination being made against the Japanese. If such provision as the one under examination is to be permitted to remain in the Immigration Bill when it becomes a law, it would not only render the striking out of the paragraph above cited from the new Treaty entirely meaningless, but would also set at naught the "Gentleman's Agreement," the Declaration of 1911, and all the efforts and sacrifices thereunder on the part of the Japanese Government for all these years. I need hardly observe that it would be a most difficult one for my Government to confront and deal with. What my Government are asking of this Government is merely and simply that the latter show, in the light of these facts; a consideration for the self respect of the Japanese nation. In this connection I wish to be permitted also to state that it was only natural for the Japanese Government to have understood that, when the

"Gentleman's Agreement" was made, when the elimination of the above paragraph from the new Treaty was agreed to, and when the Declaration of Ambassador Uchida of 1911 was given, the United States Government assumed moral responsibility to see that no discriminatory legislation in whatever form shall take place in this country with regard to the entrance of Japanese subjects.

I may also be permitted to point out that the principle on which the Japanese Government find themselves unable to compromise is the same as that involved in the California Land Law question. That question is yet far from seeing any solution between the two Governments, and it would be most deplorable if the very question still unsolved is to be made a graver and greater issue between the two nations. It will assume a graver aspect and a greater importance just in the proposition as the Immigration Bill stands to the California Land Law, one merely local, the other national. Then, the influence that such a Federal legislation may exert upon future legislation of various States of the Union should be given a serious consideration.

附屬書第七十二號　同案修正ニ關スル國務長官宛在米大使書付

Adverting to the conversation held with the Honorable the Secretary of State on May 1, relative to the amending of certain passages in the Burnett Immigration Bill, the Japanese Ambassador begs, under instructions from Baron Ishii, to submit to the Honorable the Secretary of State for favorable consideration a form of amendment suggested in the accompanying paper. It is, of course, understood that the other amendments are to remain as set forth in the Senate Committee's draft.

Further, the Ambassador would like to call attention to the following points:

1. As already recommended by the Honorable the Secretary of State, the place of insertion of the proviso relating to the control and regulation of admission and return of students and others applying for temporary admission, on page 12, lines 9-14, be changed to after the clause that ends with the word "Act" in line 23, page 7.

2. As also recommended in the note of the Honorable the Secretary of State to the Chairman of the Senate Committee on Immigration under date of April 7, the words "or who can not become eligible, under existing law, to become a citizen of the United States

by naturalization, as provided in Section three of this Act", in Section 9, page 19, lines 17-19, be deleted.

3. It is further desired that the word "agreement" which is found in Section 32, line 18 of page 59, and in Section 33, line 20 of page 60, be deleted. The insertion of this word in the two places indicated has been made for the first time in the Burnett Bill in its present form, with the object apparently to make the phraseology of the passages concerned more conformable to the phraseology of the passage in lines 7-9, page 7, and to refer directly and definitely to a passport agreement. The spirit in which the words "existing agreements as to passports" etc. in lines 7-8, page 7, are proposed to be deleted would, it appears, also call for the deletions above suggested.

May 3, 1916.

Page 7, line 4, after the word "Hindus" insert a semicolon and strike out the word "and"; strike out all of lines 5 and 6. Lines 7 to 8, strike out the words "by existing agreements as to passports, or". Lines 8 to 10, strike out the words "conventions, or agreements or by treaties, conventions, or agreements that may hereafter be entered into". Line 10, strike out the period and add "the native race or races of any country, province, or dependency situate on the Continent of Asia west of the one hundred and tenth meridian of longitude east from Greenwich, except Turkey

in Asia, or the native race or races of islands not possessed by the United States adjacent to the Continent of Asia situate south of the twentieth parallel of latitude north, west of the one hundred and sixtieth meridian of longitude east from Greenwich, and north of the tenth parallel of latitude south".

Page 7, line 10, strike out the word "provision" and insert in lieu thereof the words "two provisions".

If the above changes are made the combined excluding provision as it stood in the act when the same was referred to the Senate Committee will be separated into two excluding clauses, each having a semicolon at the beginning and end (the method of punctuation followed with respect to every other excluding clause), and the part of the act affected will read as follows:

"Hindus; unless otherwise provided for by existing treaties, the native race or races of any country, province, or dependency situate on the Continent of Asia west of the one hundred and tenth meridian of longitude east from Greenwich, except Turkey in Asia, or the native race or races of islands not possessed by the United States adjacent to the Continent of Asia situate south of the twentieth parallel of latitude north, west of the one hundred and sixtieth meridian of longitude east from Greenwich, and north of the tenth parallel of latitude south. The two provisions next foregoing, however, shall not apply to persons of the following status or occupations: Government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, civil

engineers, teachers, students, authors, artists, merchants, and travelers for curiosity or pleasure, nor to their legal wives or their children under sixteen years of age who shall accompany them or who subsequently may apply for admission to the United States, but such persons or their legal wives or foreign-born children who fail to maintain in the United States a status or occupation placing them within the excepted classes shall be deemed to be in the United States contrary to law, and shall be subject to deportation as provided in section nineteen of this Act."

附屬書第七十四號　同案ニ對スル國務長官宛在米大使書付

No. 1.

Concerning the Immigration Bill which passed the Senate on December 15 with some amendments and which is now pending in the conference of the two Houses, the Japanese Embassy respectfully and informally call the attention of the Department of State with regard to the following points:

I.

In the Senate Amendment numbered (4) "unless otherwise qualified for admission and voluntarily coming from contiguous foreign territory to seek employment in harvesting farm crops, persons whose intention it is to return to the country whence they come, after temporarily engaging in laboring pursuits in the United States: persons who, after having been admitted to the United States, return to the country whence they came there to reside or for the purpose of taking part in any way in which such country is involved", it is to be noted, if this amendment were adopted, that a foreign merchant for example who returns to his native country from this country with a view to residing there for a certain length of time might be debarred from again entering the United States. It is incomprehensible why an alien, who is otherwise perfectly admissible, should be excluded

merely because of the fact that he has, after leaving the country where he was lawfully admitted, elected to reside in the country whence he came. The very wording of the amendment admits of no other construction, for the exception concerning the merchants, etc. mentioned in the provision at the end of the Section does not seem to apply to this provision. (See lines 16-24, page 7, and line 22, page 8 to line 10, page 9 of the Immigration Bill as passed by the Senate). If the amendment is enforced to the letter, which is naturally to be expected of any statutes, it will, for obvious reasons, cause a great hardship to many Japanese subjects, although in a much smaller measure than to the people of some other countries.

II.

In the Senate Amendment numbered (5) a provision, to wit: "Nothing in this Act shall be construed to repeal any existing law, treaty, or agreement in so far as such law, treaty, or agreement serves to prohibit or restrict immigration into the United State or any possession thereof", having been inserted at the end of the so-called latitude and longitude provision, the exception immediately following worded "The provision next foregoing, however, shall not apply to ....." appears as if intended to apply only to the abovementioned new amendment, running "Nothing in this Act ....." though the intent of this exception clause is, so far as can be learned from the Congressional Record, to be applied to persons coming from the abovementioned excluded zone. On

the other hand, if the provision worded "The provision next foregoing....." is meant to cover the preceding provisions in that section, (although obviously it can hardly be so construed), all white persons, by virtue of the Senate amendment numbered (6) will be held free from the restrictions enjoined in that section, thus creating a great discrimination against those other than white persons. In either case, the ambiguity will, we are afraid, lead to defeat the avowed purpose of that part of the Bill.

No. 2.

I.

The striking out of the clause "nothing in this Act shall be construed to repeal any existing law, treaty, or agreement in so far as such law, treaty, or agreement serves to prohibit or restrict immigration into the United States or any possession thereof" from the Senate amendment numbered (5). In the course of the negotiation between you and my predecessor, Viscount Chinda, concerning the immigration bill now pending in Congress, it was undoubtedly the earnest desire of my Government that any clause or word which might have any reference to the so-called Gentleman's Agreement existing between Japan and the United States should not be inserted. In the Senate amendment mentioned above which was proposed by Senator Phelan the word "agreement" was especially added with a view to referring it to the

existing agreement between Japan and the United States which is now serving to restrict Japanese immigration into the United States or its possessions. This fact was clearly shown from the speeches of that Senator and others on the floor of the Senate as appeared in the Congressional Record. As you remember, the word "agreement" was deleted even from Section 32 and Section 33 of the House Bill by the Senate Immigration Committee to accord with the desire of the Japanese Government set forth in the beginning. Moreover, there is no necessity to leave in this clause the words "law and treaty" because there are no existing laws or treaties except as to Chinese which serve to prohibit or restrict immigration into this country and as to Chinese there is a general exception provision in Section 38 mentioning that the status of the Chinese exclusion law will not be changed in any way. Therefore, the Japanese Government again earnestly desire that this clause inserted in the Senate Bill will be entirely stricken out, or if it is not possible, at least the word "agreement" will be deleted from this amendment in accord with the good faith which the United States Government has heretofore so kindly shown in this connection. I may add that, according to my understanding, in this country there is no existing agreement or any sort of agreement which serves to restrict immigration into this country except that agreement with Japan, if agreement it may be called.

Thus it may be asserted there is no reason to leave the word "agreement" in the immigration bill if this Government do not intend to make any reference to the so-called Gentleman's Agreement with Japan.

II.

Striking out the words "white persons nor to" in the Senate amendment numbered (6).

In the course of the negotiations between you and my predecessor Viscount Chinda, concerning the immigration bill, you showed him on May 1st, a draft of the amendment which you were going to send to Senator Smith, Chairman of the Committee on Immigration, setting forth the desire of the Japanese Government. In that draft it was proposed to insert in the place of the amendment now numbered (5) to wit: "Hindus: unless otherwise provided for by existing treaties, persons who cannot become eligible under existing law to become citizens of the United States by naturalization, who are natives of any country, province or dependency situated on the continent of Asia west of 110th meridian of longitude east of Greenwich, ...". In this amendment Viscount Chinda objected to the retention of the clause "persons who cannot become eligible .....", because such retention though it has no relation to Japan now that Japan has been excluded from the excluding zone defined by the longitude and latitude, such retention in the Federal Statutes may be taken as a precedent in future in the state legislature in passing the discriminatory statute against the Japanese people. Then, according to the memory of this office, you proposed to Viscount Chinda to use the words "not white

persons" instead of "persons who cannot become eligible". To this proposal of yours Viscount Chinda again raised objection for the same reason, namely, that the words "white persons' also might be used in the State legislature as a defining line in passing a law which is discriminatory to the Japanese people. Viscount Chinda also maintained that in the face of the wording of the naturalization law of this country, the words "not white persons" and "persons who cannot become eligible" can be said to be synonymous in the main. Accordingly, in your letter sent to Senator Smith under date of May 11, setting forth the amendment in accordance with the desire of my Government, you struck out the abovementioned clause "persons who cannot become eligible ....." as now shown by the Senate amendment numbered (5).

Now in the Senate amendment numbered (6) inserting the words "white persons" in the exception clause of the so-called longitude and latitude clause the Senate adopted the same thing in substance which appeared in your first proposal and which was subsequently stricken out on account of the objection of Viscount Chinda. Therefore, the Japanese Government earnestly desire to again have stricken out the words "white persons" appearing in the Senate amendment numbered (6) also in accord with the same courtesy which the United States Government has heretofore shown to them. I may add, simply as a suggestion, that the object of the Senate in inserting the exception for "white persons" can be attained if the longitude line mentioned in the bill were

to be moved a little further east even in case the words "white persons" are stricken out. That is to say, Senator Reed objected to this Senate amendment only as it might exclude the admission of the white people residing in the western part of Siberia, included in the excluding zone.

附屬書第七十五號　同案ニ關スル在米大使覺書及之ニ對スル國務長官回答覺書

No. 1.

Imperial Japanese Embassy,
Washington.

The Japanese Ambassador presents his compliments to the Honorable the Secretary of State and, in sending to him herewith an Aide Memoire with reference to their interview on the 13th instant, has the honour to request that the Secretary of State will be good enough to let him know beforehand, if possible, the nature of the amendment on the point under representation from his Government which will possibly be agreed upon by the Conference Committee on the Immigration Bill.

January 15, 1917.

Imperial Japanese Embassy,
Washington.

AIDE MEMOIRE.

The Conference Committee on the Immigration Bill has adopted, in place of the Senate amendment reading, "No-

thing in this Act shall be construed to repeal any existing law, treaty, or agreement, in so far as such law, treaty, or agreement serves to prohibit or restrict immigration into the United States or any possession thereof," the following provision,—"And no alien now in any way excluded from or prevented from entering the United States shall be admitted to the United States."

That this provision cannot possibly be construed otherwise than as referring to the so-called "Gentleman's Agreement", is evident not only from its wording but from the explanatory speeches delivered on the floor of the House on January 12th. My Government feel constrained, by the same reasons as advanced in my Aide Memoire handed to you on the 30th of December last, to raise objection to this new provision and instruct me to again request your good offices to the end that the provision be deleted and nothing similarly objectionable be substituted. I may add that the Senate amendment above cited would be preferable to my Government to the Conference provision in question, only if the word "agreement" be left out.

No. 2.

MEMORANDUM.

The Secretary of State acknowledges the receipt today of a note from the Japanese Ambassador transmitting an Aide Memoire relating to a clause in the Immigration Bill now pending in Congress.

The Aide Memoire has been sent to the Chairmen of the Conference Committees of the Senate and House of Representatives to be presented to the joint Committee for consideration.

The Secretary of State, however, is unable to share the opinion of the Ambassador that the amended clause to which reference is made should be considered objectionable by the Japanese Government, since no reference direct or indirect is made to the "agreement" and the legislation is general in character and discriminates against no nationals. The attention of the Ambassador is called to the fact that the conference report was adopted by the Senate on Saturday last and that the report will probably come before the House of Representatives tomorrow for action.

(Signed) Robert Lansing.

Department of State,
Washington, January 15, 1917.

附屬書第七十六號　No alien 云々ノ規定ノ解釋ニ關スル在米大使國務長官間交換公文

No. 1.

Imperial Japanese Embassy,
Washington.
April 6, 1917.

Sir:

Article 3 of the Immigration Act which passed the Congress on February 5, 1917, contains a clause reading:

"and no alien now in any way excluded from or prevented from entering the United States shall be admitted to the United States."

The phrase "now in any way" being open to a broad latitude of interpretation, the Japanese Government cannot quite relieve itself of the apprehension that the clause might prove prejudicial to Japanese immigration.

Accordingly, under instructions from my Government, I have the honor to request you to be good enough to assure me that the so-called "Gentleman's Agreement" would not, from its very nature, come within the purview of the application of the said clause.

Accept, Sir, the renewed assurances of my highest consideration.

(Signed) Aimaro Sato.

Honorable Robert Lansing,
Secretary of State.

No. 2.

Department of State,
Washington.

April 6, 1917.

Excellency:

I have the honor to acknowledge the receipt of your Note of April 6, 1917, concerning the following clause of the Immigration Bill which passed the Congress on February 5, 1917:

"and no alien now in any way excluded from or prevented from entering the United States shall be admitted to the United States."

You request me to assure you that the so-called "Gentleman's Agreement" will not come within the purview of the application of the above-mentioned clause.

In reply I have the honor to state that, in my opinion, the "Agreement" should not, from its very nature, come within the purview of the application of said clause.

Accept, Excellency, the renewed assurances of my highest consideration.

(Signed) Robert Lansing.

His Excellency
Mr. Aimaro Sato,
Japanese Ambassador.

附屬書第七十七號　一九一七年移民法

IMMIGRATION ACT OF FEBRUARY 5, 1917
(39 STAT. 874)

REGULATING IMMIGRATION OF ALIENS TO, AND RESIDENCE OF ALIENS IN, THE UNITED STATES

SECTION 1. That the word "alien" wherever used in this act shall include any person not a native-born or naturalized citizen of the United States; but this definition shall not be held to include Indians[1] of the United States not taxed or citizens of the islands under the jurisdiction of the United States. That the term "United States" as used in the title as well as in the various sections of this act shall be construed to mean the United States, and any waters, territory, or other place subject to the jurisdiction thereof, except the Isthmian Canal Zone; but if any alien shall leave the Canal Zone or any insular possession of the United States and attempt to enter any other place under the jurisdiction of the United States, nothing contained in this act shall be construed as permitting him to enter under any other conditions than those applicable to all aliens. That the term "seaman" as used in this act shall include every person signed on the ship's articles and employed in any capacity on board any vessel arriving in the

[1] See acts of June 2, 1924, and Jan. 25, 1929, conferring citizenship upon Indians born in the United States, p. 83.

United States from any foreign port or place.

(Sec. 173.)

That this act shall be enforced in the Philippine Islands by officers of the general government thereof, unless and until it is superseded by an act passed by the Philippine Legislature and approved by the President of the United States to regulate immigration in the Philippine Islands as authorized in the act entitled "An act to declare the purpose of the people of the United States as to the future political status of the people of the Philippine Islands, and to provide a more autonomous government for those islands," approved August twenty-ninth, nineteen hundred and sixteen.

(Sec. 175.)

SEC. 2. That there shall be levied, collected, and paid a tax of $8 for every alien, including alien seamen regularly admitted as provided in this act, entering the United States: *Provided,* That children under sixteen years of age who accompany their father or their mother shall not be subject to said tax.[2] The said tax shall be paid to the collector of customs of the port or customs district to which said alien shall come, or, if there be no collector at such port or district, then to the collector nearest thereto, by the master, agent, owner, or consignee of the vessel, transportation line, or other conveyance or vehicle bringing such alien to the United States, or by the alien himself if he does not come by a vessel, transportation line, or other conveyance or vehicle or when collec-

[2] For complete list of exceptions, see Rule 1.

tion from the master, agent, owner, or consignee of the vessel, transportation line, or other conveyance, or vehicle bringing such alien to the United States is impracticable. The tax imposed by this section shall be a lien upon the vessel or other vehicle of carriage or transportation bringing such aliens to the United States, and shall be a debt in favor of the United States against the owner or owners of such vessel or other vehicle, and the payment of such tax may be enforced by any legal or equitable remedy. That the said tax shall not be levied on account of aliens who enter the United States after an uninterrupted residence of at least one year immediately preceding such entrance in the Dominion of Canada, Newfoundland, the Republic of Cuba, or the Republic of Mexico, for a temporary stay, nor on account of otherwise admissible residents or citizens of any possession of the United States, nor on account of aliens in transit through the United States, nor upon aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory, and the Commissioner General of Immigration, with the approval of the Secretary of Labor, shall issue rules and regulations and prescribe the conditions necessary to prevent abuse of these exceptions: *Provided*, That the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Labor, by agreement with transportation lines, as provided in section twenty-three of this act, may arrange in some other manner for the payment of the tax imposed by this section upon any

or all aliens seeking admission from foreign contiguous territory:[3] *Provided further*, That said tax, when levied upon aliens entering the Philippine Islands, shall be paid into the treasury of said islands, to be expended for the benefit of such islands: *Provided further*, That in the cases of aliens applying for admission from foreign contiguous territory and rejected, the head tax collected shall upon application, upon a blank which shall be furnished and explained to him, be refunded to the alien.

(Sec. 132.)

SEC. 3. That the following classes of aliens shall be excluded from admission into the United States:[4] All idiots, imbeciles, feeble-minded persons, epileptics, insane persons; persons who have had one or more attacks of insanity at any time previously; persons of constitutional psychopathic inferiority; persons with chronic alcoholism; paupers; professional beggars; vagrants; persons afflicted with tuberculosis in any form or with a loathsome or dangerous contagious disease; persons not comprehended within any of the foregoing excluded classes who are found to be and are certified by the examining surgeon as being mentally or physically defective, such physical defect being of a nature which may affect the ability of such alien to earn a living; persons who have been convicted of or admit having committed a felony or other crime or misdemeanor involving moral turpitude;

[3] See Rule 1.

[4] See also act of May 10, 1920 (41 Stat. 593), p. 75, and act of Oct. 10, 1918 (40 Stat. 1012), as amended by act of June 5, 1920 (41 Stat. 1008), p. 73.

polygamists, or persons who practice polygamy or believe in or advocate the practice of polygamy; anarchists, or persons who believe in or advocate the overthrow by force or violence of the Government of the United States, or of all forms of law, or who disbelieve in or are opposed to organized government or who advocate the assassination of public officials, or who advocate or teach the unlawful destruction of property; persons who are members of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or who advocate or teach the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character, or who advocate or teach the unlawful destruction of property; prostitutes, or persons coming into the United States for the purpose of prostitution or for any other immoral purpose; persons who directly or indirectly procure or attempt to procure or import prostitutes or persons for the purpose of prostitution or for any other immoral purpose; persons who are supported by or receive in whole or in part the proceeds of prostitution; persons hereinafter called contract laborers, who have been induced, assisted, encouraged, or solicited to migrate to this country by offers or promises of employment, whether such offers or promises are true or false, or in consequence of agreements, oral, written, or printed, express or implied, to perform labor in this country of any kind, skilled or unskilled; persons who have

come in consequence of advertisements for laborers printed, published, or distributed in a foreign country; persons likely to become a public charge;[5] persons who have been excluded from admission and deported in pursuance of law, and who may again seek admission within one year from the date of such deportation, unless prior to their reembarkation at a place outside the United States or their attempt to be admitted from foreign contiguous territory the Secretary of Labor has consented to their reapplying for admission;[6] persons whose tickets or passage is paid for with the money of another, or who are assisted by others to come, unless it is affirmatively and satisfactorily shown that such persons do not belong to one of the foregoing excluded classes; persons whose ticket or passage is paid for by any corporation, association, society, municipality, or foreign government, either directly or indirectly; stowaways, except that any such stowaway, if otherwise admissible, may be admitted in the discretion of the Secretary of Labor;[7] all children under sixteen years of age, unaccompanied by or not coming to one or both of their parents, except that any such children may, in the discretion of the Secretary of Labor, be admitted if in his opinion they are not likely to become a public charge and are, otherwise

[5] This clause excluding aliens on the ground likely to become a public charge has been shifted from its position in sec. 2 of the immigration act of 1907 to its present position in sec. 3 of this act in order to indicate the intention of Congress that aliens shall be excluded upon said ground for economic as well as other reasons and with a view to overcoming the decision of the Supreme Court in Gegiow *v.* Uhl, 239 U. S. 3 (S. Rept. 352, 64th Cong., 1st sess.).

[6] See amendment in sec. 1 (d) act approved Mar. 4, 1929 (45 Stat. 1551), p. 19.

[7] See Rule 3, Subdivision O.

eligible;[8] unless otherwise provided for by existing treaties, persons who are natives of islands not possessed by the United States adjacent to the continent of Asia, situate south of the twentieth parallel latitude north, west of the one hundred and sixtieth meridian of longitude east from Greenwich, and north of the tenth parallel of latitude south, or who are natives of any country, province, or dependency situate on the continent of Asia west of the one hundred and tenth meridian of longitude east from Greenwich and east of the fiftieth meridian of longitude east from Greenwich and south of the fiftieth parallel of latitude north, except that portion of said territory situate between the fiftieth and the sixty-fourth meridians of longitude east from Greenwich and the twenty-fourth and thirty-eighth parallels of latitude north, and no alien now in any way excluded from, or prevented from entering, the United States shall be admitted to the United States. The provision next foregoing, however, shall not apply to persons of the following status or occupations: Government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, civil engineers, teachers, students, authors, artists, merchants, and travelers for curiosity or pleasure, nor to their legal wives or their children under sixteen years of age who shall accompany them or who subsequently may apply for admission to the United States, but such persons or their legal wives or foreign-born children who fail to maintain in the United States a status or occupation placing them

[8] See Rule 3, Subdivision N.

within the excepted classes shall be deemed to be in the United States contrary to law, and shall be subject to deportation as provided in section nineteen of this act.

That after three months from the passage of this act[9] in addition to the aliens who are by law now excluded from admission into the United States, the following persons shall also be excluded from admission thereto, to wit:

All aliens over sixteen years of age, physically capable of reading, who can not read the English language, or some other language or dialect, including Hebrew or Yiddish:[10] *Provided,* That any admissible alien, or any alien heretofore or hereafter legally admitted, or any citizen of the United States, may bring in or send for his father or grandfather over fifty-five years of age, his wife, his mother, his grandmother, or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not; and such relative shall be permitted to enter. That for the purpose of ascertaining whether aliens can read the immigrant inspectors shall be furnished with slips of uniform size, prepared under the direction of the Secretary of Labor, each containing not less than thirty nor more than forty words in ordinary use, printed in plainly legible type in some one of the various languages or dialects of immigrants. Each alien may designate the particular language or dialect in which he desires the examination to be made, and shall be required

[9] The literacy test became operative on May 5, 1917. All other provisions of the law became operative May 1, 1917.

[10] For method of applying the reading test, see Rule 3, Subdivision L.

to read the words printed on the slip in such language or dialect. That the following classes of persons shall be exempt from the operation of the illiteracy test, to wit: All aliens who shall prove to the satisfaction of the proper immigration officer or to the Secretary of Labor that they are seeking admission to the United States to avoid religious persecution in the country of their last permanent residence, whether such persecution be evidenced by overt acts or by laws or governmental regulations that discriminate against the alien or the race to which he belongs because of his religious faith; all aliens who have been lawfully admitted to the United States and who have resided therein continuously for five years and who return to the United States within six months from the date of their departure therefrom; all aliens in transit through the United States;[11] all aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory: *Provided,* That nothing in this act shall exclude, if otherwise admissible, persons convicted, or who admit the commission, or who teach or advocate the commission, of an offense purely political: *Provided further,* That the provisions of this act, relating to the payments for tickets or passage by any corporation, association, society, municipality, or foreign government shall not apply to the tickets or passage of aliens in immediate and continuous transit through the United States to foreign contiguous territory: *Provided further,* That skilled labor, if otherwise admissible, may be imported if labor of like kind unemployed can not be found in this country, and the question of the necessity of importing such skilled labor in any particular instance may be determined by the Secretary of Labor upon the application of any person interested, such application to be made before such importation, and such determination by the Secretary of Labor to be reached after a full hearing and an investigation into the facts of the case: *Provided further,* That the provisions of this law applicable to contract labor shall not be held to exclude professional actors, artists, lecturers, singers, nurses, ministers of any religious denomination, professors for colleges or seminaries, person belonging to any recognized learned profession, or persons employed as domestic servants:[12] *Provided further,* That whenever the President shall be satisfied that passports issued by any foreign government to its citizens or subjects to go to any country other than the United States, or to any insular possession of the United States or to the Canal Zone, are being used for the purpose of enabling the holder to come to the continental territory of the United States to the detriment of labor conditions therein, the President shall refuse to permit such citizens or subjects of the country issuing such passports to enter the continental territory of the United States from such other country or from such insular possession or from the Canal Zone:[13] *Provided further,* That aliens

[11] See Rule 6.

[12] See Rule 9.

[13] See Rule 8.

returning after a temporary absence to an unrelinquished United States domicile of seven consecutive years may be admitted in the discretion of the Secretary of Labor, and under such conditions as he may prescribe:[14] *Provided further,* That nothing in the contract-labor or reading-test provisions of this act shall be construed to prevent, hinder, or restrict any alien exhibitor, or holder of concession or privilege for any fair or exposition authorized by act of Congress, from bringing into the United States, under contract, such otherwise admissible alien mechanics, artisans, agents, or other employees, natives of his country as may be necessary for installing or conducting his exhibit or for preparing for installing or conducting any business authorized or permitted under any concession or privilege which may have been or may be granted by any such fair or exposition in connection therewith, under such rules and regulations as the Commissioner General of Immigration, with the approval of the Secretary of Labor, may prescribe both as to the admission and return of such persons:[15] *Provided further,* That the Commissioner General of Immigration with the approval of the Secretary of Labor shall issue rules and prescribe conditions, including exaction of such bonds as may be necessary, to control and regulate the admission and return of otherwise inadmissible aliens applying for temporary admission:[16] *Provided further,* That nothing in this act shall be construed to

[14] See Rule 13. Subdivision A.
[15] See Rule 9, Subdivision G, and act of Apr. 29, 1902 (32 Stat. 176), p. 55.
[16] See Rule 13, Subdivision B; also Rule 9, Subdivision F.

apply to accredited officials of foreign governments, nor to their suites, families, or guests.[17]

(Sec. 136.)

SEC. 4. That the importation into the United States of any alien for the purpose of prostitution, or for any other immoral purpose, is hereby forbidden; and whoever shall, directly or indirectly, import, or attempt to import into the United States any alien for the purpose of prostitution or for any other immoral purpose, or shall hold or attempt to hold any alien for any such purpose in pursuance of such illegal importation, or shall keep, maintain, control, support, employ, or harbor in any house or other place, for the purpose of prostitution or for any other immoral purpose, any alien, in pursuance of such illegal importation, shall in every such case be deemed guilty of a felony, and on conviction thereof shall be punished by imprisonment for a term of not more than ten years and by a fine of not more than $5,000. Jurisdiction for the trial and punishment of the felonies hereinbefore set forth shall be in any district to or into which said alien is brought in pursuance of said importation by the person or persons accused, or in any district in which a violation of any of the foregoing provisions of this section occurs. That any alien who shall, after he has been excluded and deported or arrested and deported in pursuance of the provisions of this act which relate to prostitutes, procurers, or other like immoral persons, attempt thereafter to return to

[17] See proviso added by act of June 5, 1920 (41 Stat. 981), p. 76.

or to enter the United States shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment for a term of not more than two years. In all prosecutions under this section the testimony of a husband or wife shall be admissible and competent evidence against each other.

(Sec. 138.)

SEC. 5. That it shall be unlawful for any person, company, partnership, or corporation, in any manner whatsoever, to prepay the transportation or in any way to induce, assist, encourage, or solicit, or attempt to induce, assist, encourage, or solicit the importation or migration of any contract laborer or contract laborers into the United States, unless such contract laborer or contract laborers are exempted under the fifth proviso of section three of this act, or have been imported with the permission of the Secretary of Labor in accordance with the fourth proviso of said section, and for every violation of any of the provisions of this section the person, partnership, company, or corporation violating the same shall forfeit and pay for every such offense the sum of $1.000, which may be sued for and recovered by the United States, as debts of like amount are now recovered in the courts of the United States. For every violation of the provisions hereof the person violating the same may be prosecuted in a criminal action for a misdemeanor, and on conviction thereof shall be punished by a fine of $1,000, or by imprisonment for a term of not less than six months nor more than two years; and under either the civil or the criminal procedure

mentioned separate suits or prosecutions may be brought for each alien thus offered or promised employment as aforesaid. The Department of Justice, with the approval of the Department of Labor, may from any fines or penalties received pay rewards to persons other than Government employees who may furnish information leading to the recovery of any such penalties, or to the arrest and punishment of any person, as in this section provided.

(Sec. 139.)

SEC. 6. That it shall be unlawful and be deemed a violation of section five of this act to induce, assist, encourage, or solicit or attempt to induce, assist, encourage, or solicit any alien to come into the United States by promise of employment through advertisements printed, published, or distributed in any foreign country, whether such promise is true or false, and either the civil or criminal penalty or both imposed by said section shall be applicable to such a case.

(Sec. 142.)

SEC. 7. That it shall be unlawful for any person, association, society, company, partnership, corporation, or others engaged in the business of transporting aliens to or within the United States, including owners, masters, officers, and agents of vessels, directly or indirectly, by writing, printing, oral representation, payment of any commissions to an alien coming into the United States, allowance of any rebates to an alien coming into the United States, or otherwise to solicit, invite, or encourage or attempt to solicit, invite, or encourage any alien to come into the United States, and anyone violat-

ing any provision hereof shall be subject to either the civil or the criminal prosecution, or both, prescribed by section five of this act; or if it shall appear to the satisfaction of the Secretary of Labor that any owner, master, officer, or agent of a vessel has brought or caused to be brought to a port of the United States any alien so solicited, invited, or encouraged to come by such owner, master, officer, or agent, such owner, master, officer, or agent shall pay to the collector of customs of the customs district in which the port of arrival is located, or in which any vessel of the line may be found, the sum of $400 for each and every such violation; and no vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine, or while the fine imposed remains unpaid, nor shall such fine be remitted or refunded:[18] *Provided,* That clearance may be granted prior to the determination of such questions upon the deposit with the collector of customs of a sum sufficient to cover such fine: *Provided further,* That whenever it shall be shown to the satisfaction of the Secretary of Labor that the provisions of this section are persistently violated by or on behalf of any transportation company, it shall be the duty of said Secretary to deny to such company the privilege of landing alien immigrant passengers of any or all cases at United States ports for such a period as in his judgment may be necessary to insure an observance of such provisions: *Provided further,* That this section shall not be held to prevent

[18] For method of enforcing this provision, see Rule 23.

transportation companies from issuing letters, circulars, or advertisements, confined strictly to stating the sailing of their vessels and terms and facilities of transportation therein: *Provided further,* That under sections 5, 6, and 7 hereof it shall be presumed from the fact that any person, company, partnership, corporation, association, or society induces, assists, encourages, solicits or invites, or attempts to induce, assist, encourage, solicit or invite the importation, migration or coming of an alien from a country foreign to the United States, that the offender had knowledge of such person's alienage.

(Sec. 143.)

SEC. 8. That any person, including the master, agent, owner, or consignee of any vessel, who shall bring into or land in the United States, by vessel or otherwise, or shall attempt, by himself or through another, to bring into or land in the United States, by vessel lor otherwise, or shall conceal or harbor, or attempt to conceal or harbor or assist or abet another to conceal or harbor in any place, including any building, vessel, railway car, conveyance, or vehicle, any alien not duly admitted by an immigrant inspector or not lawfully entitled to enter or to reside within the United States under the terms of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $2,000 and by imprisonment for a term not exceeding five years, for each and every alien so landed or

brought in or attempted to be landed or brought in.

(Sec. 144.)

STEAMSHIP FINES UNDER 1917 ACT

SEC. 9 (as amended by sec. 26 of immigration act of 1924). That it shall be unlawful for any person, including any transportation company other than railway lines entering the United States from foreign contiguous territory, or the owner, master, agent, or consignee of any vessel to bring to the United States either from a foreign country or any insular possession of the United States any alien afflicted with idiocy, insanity, imbecility, feeble-mindedness, epilepsy, constitutional psychopathic inferiority, chronic alcoholism, tuberculosis in any form, or a loathsome or dangerous contagious disease, and if it shall appear to the satisfaction of the Secretary of Labor that any alien so brought to the United States was afflicted with any of the said diseases or disabilities at the time of foreign embarkation, and that the existence of such disease or disability might have been detected by means of a competent medical examination at such time, such person or transportation company, or the master, agent, owner, or consignee of any such vessel shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $1,000, and in addition a sum equal to that paid by such alien for his transportation from the initial point of departure, indicated in his ticket, to the port of arrival for each and every violation of the provisions of this section, such latter sum to be delivered by the collector of

customs to the alien on whose account assessed. It shall also be unlawful for any such person to bring to any port of the United States any alien afflicted with any mental defect other than those above specifically named, or physical defect of a nature which may affect his ability to earn a living, as contemplated in section 3 of this act, and if it shall appear to the satisfaction of the Secretary of Labor that any alien so brought to the United States was so afflicted at the time of foreign embarkation, and that the existence of such mental or physical defect might have been detected by means of a competent medical examination at such time, such person shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $250, and in addition a sum equal to that paid by such alien for his transportation from the initial point of departure, indicated in his ticket, to the port of arrival, for each and every violation of this provision, such latter sum to be delivered by the collector of customs to the alien for whose account assessed. It shall also be unlawful for any such person to bring to any port of the United States any alien who is excluded by the provisions of section 3 of this act because unable to read, or who is excluded by the terms of section 3 of this act as a native of that portion of the Continent of Asia and the islands adjacent thereto described in said section, and if it shall appear to the satisfaction of the Secretary of Labor that these disabilities might have been detected by the exercise of reasonable precaution prior to the departure of such aliens from a foreign port, such person shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of

$1,000, and in addition a sum equal to that paid by such alien for his transportation from the initial point of departure, indicated in his ticket, to the port of arrival, for each and every violation of this provision, such latter sum to be delivered by the collector of customs to the alien on whose account assessed.

If a fine is imposed under this section for the bringing of an alien to the United States, and if such alien is accompanied by another alien who is excluded from admission by the last proviso of section 18 of this act, the person liable for such fine shall pay to the collector of customs, in addition to such fine but as a part thereof, a sum equal to that paid by such accompanying alien for his transportation from his initial point of departure indicated in his ticket, to the point of arrival, such sum to be delivered by the collector of customs to the accompanying alien when deported. And no vessel shall be granted clearance papers pending the determination of the question of the liability to the payment of such fines, or while the fines remain unpaid, nor shall such fines be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such questions upon the deposit of a sum sufficient to cover such fines or of a bond with sufficient surety to secure the payment thereof, approved by the collector of customs: *Provided further*, That nothing contained in this section shall be construed to subject transportation companies to a fine for bringing to ports of the United States aliens who are by any of the provisos or exceptions to section 3 of this act exempted from the excluding provisions of said section.

(Sec. 145.)

SEC. 10. (as amended by sec. 27 of immigration act of 1924). That it shall be the duty of every person, including owners, masters, officers, and agents of vessels of transportation lines, or international bridges or toll roads, other than railway lines which may enter into a contract as provided in section 23, bringing an alien to, or providing a means for an alien to come to, the United States, to prevent the landing of such alien in the United States at any time or place other than as designated by the immigration officers. Any such person, owner, master, officer, or agent who fails to comply with the foregoing requirements shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine in each case of not less than $200 nor more than $1,000, or by imprisonment for a term not exceeding one year, or by both such fine and imprisonment; or, if in the opinion of the Secretary of Labor, it is impracticable or inconvenient to prosecute the person, owner, master, officer, or agent of any such vessel, such person, owner, master, officer, or agent shall be liable to a penalty of $1,000, which shall be a lien upon the vessel whose owner, master, officer, or agent violates the provisions of this section, and such vessel shall be libeled therefor in the appropriate United States court.

(b) Proof that the alien failed to present himself at the time and place designated by the immigration officers shall be prima facie evidence that such alien has landed in the United States at a time or place other than as designated by the immigration officers.

(Sec. 146.)

SEC. 11. That for the purpose of determining whether aliens arriving at ports of the United States belong to any of the classes excluded by this act, either by reason of being afflicted with any of the diseases or mental or physical defects or disabilities mentioned in section three hereof, or otherwise, or whenever the Secretary of Labor has received information showing that any aliens are coming from a country or have embarked at a place where any of said diseases are prevalent or epidemic, the Commissioner General of Immigration, with the approval of the Secretary of Labor, may direct that such alies shall be detained on board the vessel bringing them, or in a United States immigration station at the expense of such vessel, as circumstances may require or justify, a sufficient time to enable the immigration officers and medical officers stationed at such ports to subject aliens to an observation and examination sufficient to determine whether or not they belong to the said excluded classes by reason of being afflicted in the manner indicated: *Provided*, That with a view to avoid undue delay in landing passengers or interference with commerce, the Commissioner General of Immigration may, with the approval of the Secretary of Labor, issue such regulations, not inconsistent with law, as may be deemed necessary to effect the purposes of this section: *Provided further*, That it shall be the duty of immigrant inspectors to report to the Commissioner General of Immigration the condition of all vessels bringing aliens to United States ports.

(Sec. 147).

SEC. 11a. That the Secretary of Labor is hereby authorized and directed to enter into negotiations, through the Department of State, with countries vessels of which bring aliens to the United States, with a view to detailing inspectors and matrons of the United States Immigration Service for duty on vessels carrying immigrant or emigrant passengers between foreign ports and ports of the United States. When such inspectors and matrons are detailed for said duty they shall remain in that part of the vessel where immigrant passengers are carried; and it shall be their duty to observe such passengers during the voyage and report to the immigration authorities in charge at the port of landing any information of value in determining the admissibility of such passengers that may have become known to them during the voyage.

(Sec. 113.)

SEC. 12. That upon the arrival of any alien by water at any port within the United States on the North American Continent from a foreign port or a port of the Philippine Islands, Guam, Porto Rico, or Hawaii, or at any port of the said insular possessions from any foreign port, from a port in the United States on the North American Continent, or from a port of another insular possession of the United States, it shall be the duty of the master or commanding officer, owners, or consignees of the steamer, sailing, or other vessel having said alien on board to deliver to the immigration officers at the port of arrival typewritten or printed lists or manifests made at the time and place of embarkation

of such alien on board such steamer or vessel, which shall, in answer to questions at the top of said list, contain full and accurate information as to each alien as follows: Full name, age, and sex; whether married or single; calling or occupation; personal description (including height, complexion, color of hair and eyes, and marks of identification); whether able to read or write; nationality; country of birth; race; country of last permanent residence; name and address of the nearest relative in the country from which the alien came; seaport for landing in the United States; final destination, if any, beyond the port of landing; whether having a ticket through to such final destination; by whom passage was paid, whether in possession of $50, and if less, how much; whether going to join a relative or friend, and if so, what relative or friend, and his or her name and complete address; whether ever before in the Unites States, and if so, when and where; whether ever in prison or almshouse or an institution or hospital for the care and treatment of the insane; whether ever supported by charity; whether a polygamist; whether an anarchist; whether a person who believes in or advocates the overthrow by force or violence of the Government of the United States or of all forms of law, or who disbelieves in or is opposed to organized government, or who advocates the assassination of public officials, or who advocates or teaches the unlawful destruction of property, or is a member of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or which teaches the unlawful destruction of property, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States, or of any other organized government because of his or their official character; whether coming by reason of any offer, solicitation, promise, or agreement, express or implied, to perform labor in the United States; the alien's condition of health, mental and physical; whether deformed or crippled, and if so, for how long and from what cause; whether coming with the intent to return to the country whence such alien comes after temporarily engaging in laboring pursuits in the United States; and such other items of information as will aid in determining whether any such alien belongs to any of the excluded classes enumerated in section three hereof; and such master or commanding officer, owners, or consignees shall also furnish information in relation to the sex, age, class of travel, and the foreign port of embarkation of arriving passengers who are United States citizens. That it shall further be the duty of the master or commanding officer of every vessel taking passengers from any port of the United States on the North American Continent to a foreign port or a port of the Philippine Islands, Guam, Porto Rico, or Hawaii, or from any port of the said insular possessions to any foreign port, to a port of the United States on the North American Continent, or to a port of another insular possession of the United States to file with the immigration officials before departure a list which shall contain full and accurate information in relation

to the following matters regarding all alien passengers, and all citizens of the United States or insular possessions of the United States departing with the stated intent to reside permanently in a foreign country, taken on board: Name, age, and sex; whether married or single; calling or occupation; whether able to read or write; nationality; country of birth; country of which citizen or subject; race; last permanent residence in the United States or insular possessions thereof; if a citizen of the United States or of the insular possessions thereof; whether native born or naturalized; if native born, the place and date of birth, or if naturalized, the city or town in which naturalization has been had; intended future permanent resident; and time and port of last arrival in the United States, or insular possessions thereof; and such master or commanding officer shall also furnish information in relation to the sex, age, class of travel, and port of debarkation of the United States citizens departing who do not intend to reside permanently in a foreign country, and no master of any such vessel shall be granted clearance papers for his vessel until he has deposited such list or lists with the immigration officials at the port of departure and made oath that they are full and complete as to the name and other information herein required concerning each person of the classes specified taken on board his vessel; and any neglect or omission to comply with the requirements of this section shall be punishable as provided in section fourteen of this act: *Provided,* That in the case of vessels making regular trips to ports of the United States the Commissioner General of Immigration, with the approval of the Secretary of Labor, may, when expedient, arrange for the delivery of such lists of outgoing aliens at a later date: *Provided further,* That it shall be the duty of immigration officials to record the following information regarding every resident alien and citizen leaving the United States by way of the Canadian or Mexican borders for permanent residence in a foreign country: Name, age, and sex; whether married or single; calling or occupation; whether able to read or write; nationality; country of birth; country of which citizen or subject; race; last permanent residence in the United States; intended future permanent residence; and time and port of last arrival in the United States; and if a United States citizen, whether native born or naturalized.

(Sec. 148)

SEC. 13. That all aliens arriving by water at the ports of the United States shall be listed in convenient groups, the names of those coming from the same locality to be assembled so far as practicable, and no one list or manifest shall contain more than thirty names. To each alien or head of a family shall be given a ticket on which shall be written his name, a number or letter designating the list in which his name, and other items of information required by this act, are contained, and his number on said list, for convenience of identification on arrival. Each list or manifest shall be verified by the signature and the oath or affirmation of the master or commanding officer, or the first or second below him in command, taken before an immigration officer at the port of

arrival, to the effect that he has caused the surgeon of said vessel sailing therewith to make a physical and mental examination of each of said aliens, and that from the report of said surgeon and from his own investigation he believes that no one of said aliens is of any of the classes excluded from admission into the United States by section three of this act, and that also according to the best of his knowledge and belief the information in said lists or manifests concerning each of said aliens named therein is correct and true in every respect. That the surgeon of said vessel sailing therewith shall also sign each of said lists or manifests and make oath or affirmation in like manner before an immigration officer at the port of arrival, stating his professional experience and qualifications as a physician and surgeon, and that he has made a personal examination of each of the said aliens named therein, and that the said list or manifest, according to the best of his knowledge and belief, is full, correct, and true in all particulars relative to the mental and physical condition of said aliens. If no surgeon sails with any vessel bringing aliens, the mental and physical examinations and the verifications of the lists or manifests shall be made by some competent surgeon employed by the owners of the said vessels, and the manifests shall be verified by such surgeon before a United States consular officer or other officer authorized to administer oaths: *Provided*, That if any changes in the condition of such aliens occur or develop during the voyage of the vessel on which they are traveling, such changes

shall be noted on the manifest before the verification thereof.[19]

(Sec. 149.)

SEC. 14.[20] That it shall be unlawful for the master or commanding officer of any vessel bringing aliens into or carrying aliens out of the United States to refuse or fail to deliver to the immigration officials the accurate and full manifests or statements or information regarding all aliens on board or taken on board such vessel required by this act, and if it shall appear to the satisfaction of the Secretary of Labor that there has been such a refusal or failure, or that the lists delivered are not accurate and full, such master or commanding officer shall pay to the collector of customs at the port of arrival or departure the sum of $10 for each alien concerning whom such accurate and full manifest or statement or information is not furnished, or concerning whom the manifest or statement or information is not prepared and sworn to as prescribed by this act. No vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine, or while it remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a sum sufficient to cover such fine.

(Sec. 150.)

SEC. 15. That upon the arrival at a port of the United States any vessel bringing aliens it shall be the duty of the proper immigration officials to go or to send competent as-

[19] See Rule 2.

[20] For method of enforcing this section, see Rule 23.

sistants to the vessel and there inspect all such aliens, or said immigration officials may order a temporary removal of such aliens for examination at a designated time and place, but such temporary removal shall not be considered a landing, nor shall it relieve vessels, the transportation lines, masters, agents, owners, or consignees of the vessel upon which said aliens are brought to any port of the United States from any of the obligations which, in case such aliens remain on board, would under the provisions of this act bind the said vessels, transportation lines, masters, agents, owners, or consignees: *Provided,* That where removal is made to premises owned or controlled by the United States, said vessels, transportation lines, masters, agents, owners, or consignees, and each of them, shall, so long as detention there lasts, be relieved of responsibility for the safekeeping of such aliens. Whenever a temporary removal of aliens is made the vessels or transportation lines which brought them and the masters, owners, agents, and consignees of the vessel upon which they arrive shall pay all expenses of such removal and all expenses arising during subsequent detention, pending decision on the aliens' eligibility to enter the United States and until they are either allowed to land or returned to the care of the line or to the vessel which brought them, such expenses to include those of maintenance, medical treatment in hospital or elsewhere, burial in the event of death, and transfer to the vessel in the event of deportation, excepting only where they arise under the terms of any of the provisos of section eighteen hereof. Any refusal or failure to comply with the provisions

hereof shall be punished in the manner specified in section eighteen of this act.[21]

(Sec. 151.)

SEC. 16. That the physical and mental examination of all arriving aliens shall be made by medical officers of the United States Public Health Service who shall have had at least two years' experience in the practice of their profession since receiving the degree of doctor of medicine, and who shall conduct all medical examinations and shall certify, for the information of the immigration officers and the boards of special inquiry hereinafter provided for, any and all physical and mental defects or diseases observed by said medical officers in any such alien; or, should medical officers of the United States Public Health Service be not available, civil surgeons of not less than four years' professional experience may be employed in any such emergency for such service upon such terms as may be prescribed by the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Labor. All aliens arriving at ports of the United States shall be examined by not less than two such medical officers at the discretion of the Secretary of Labor, and under such administrative regulations as he may prescribe and under medical regulations prepared by the Surgeon General of the United States Public Health Service. Medical officers of the United States Public Health Service who have had especial training in the diagnosis of insanity and mental

[21] For method of enforcing this section, see Rule 23.

defects shall be detailed for duty or employed at all ports of entry designated by the Secretary of Labor, and such medical officers shall be provided with suitable facilities for the detention and examination of all arriving aliens in whom insanity or mental defect is suspected, and the services of interpreters shall be provided for such examination. Any alien certified for insanity or mental defect may appeal to the board of medical officers of the United States Public Health Service, which shall be convened by the Surgeon General of the United States Public Health Service, and said alien may introduce before such board one expert medical witness at his own cost and expense. That the inspection, other than the physical and mental examination, of aliens, including those seeking admission or readmission to or the privilege of passing through or residing in the United States, and the examination of aliens arrested within the United States under this act, shall be conducted by immigrant inspectors, except as hereinafter provided in regard to boards of special inquiry. All aliens arriving at ports of the United States shall be examined by at least two immigrant inspectors at the discretion of the Secretary of Labor and under such regulations as he may prescribe. Immigrant inspectors are hereby authorized and empowered to board and search for aliens any vessel, railway car, or any other conveyance, or vehicle in which they believe aliens are being brought into the United States. Said inspectors shall have power to ad-

minister oaths[22] and to take and consider evidence touching the right of any alien to enter, reenter, pass through, or reside in the United States, and where such action may be necessary, to make a written record of such evidence; and any person to whom such an oath has been administered, under the provisions of this act, who shall knowingly or willfully give false evidence or swear to any false statement in any way affecting or in relation to the right of any alien to admission, or readmission to, or to pass through, or to reside in the United States shall be deemed guilty of perjury and be punished as provided by section one hundred and twenty-five of the act approved March fourth, nineteen hundred and nine, entitled "An act to codify, revise, and amend the penal laws of the United States." All aliens coming to the United States shall be required to state under oath the purposes for which they come, the length of time they intend to remain in the United States, whether or not they intend to abide in the United States permanently and become citizens thereof, and such other items of information regarding themselves as will aid the immigration officials in determining whether they belong to any of the excluded classes enumerated in section three hereof. Any commissioner of immigration or inspector in charge shall also have power to require by subpœna the attendance and testimony of witnesses before said inspectors

[22] When such officials are detailed to investigate frauds or attempts to defraud the Government, or any irregularity or misconduct of any officer or agent of the United States, sec. 183, R. S., as amended by the act approved Feb. 13, 1911 (36 Stat. 898), should be relied upon for authority to administer oaths to witnesses.

and the production of books, papers, and documents touching the right of any alien to enter, reenter, reside in, or pass through the United States, and to that end may invoke the aid of any court of the United States; and any district court within the jurisdiction of which investigations are being conducted by an immigrant inspector may, in the event of neglect or refusal to respond to a subpœna issued by any commissioner of immigration or inspector in charge or refusal to testify before said immigrant inspector, issue an order requiring such person to appear before said immigrant inspector, produce books, papers, and documents if demanded, and testify; and any failure to obey such order of the court may be punished by the court as a contempt thereof.[23] That any person, including employees, officials, or agents of transportation companies, who shall assault, resist, prevent, impede, or interfere with any immigration official or employee in the performance of his duty under this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment for a term of not more than one year, or by a fine of not more than $2,000, or both; and any person who shall use any deadly or dangerous weapon in resisting any immigration official or employee in the performance of his duty shall be deemed guilty of a felony and shall, on conviction thereof, be punished by imprisonment for not more than ten years. Every alien who may not appear to the examining immigrant inspector at the port of arrival to be clearly

[23] See Rule 24.

and beyond a doubt entitled to land shall be detained for examination in relation thereto by a board of special inquiry. In the event of rejection by the board of special inquiry, in all cases where an appeal to the Secretary of Labor is permitted by this act, the alien shall be so informed and shall have the right to be represented by counsel or other adviser on such appeal. The decision of an immigrant inspector, if favorable to the admission of any alien, shall be subject to challenge by any other immigrant inspector, and such challenge shall operate to take the alien whose right to land is so challenged before a board of special inquiry for its investigation.

(Sec. 152.)

SEC. 17.[24] That boards of special inquiry shall be appointed by the commissioner of immigration or inspector in charge at the various ports of arrival as may be necessary for the prompt determination of all cases of immigrants detained at such ports under the provisions of the law. Each board shall consist of three members, who shall be selected from such of the immigrant officials in the service as the Commissioner General of Immigration, with the approval of the Secretary of Labor, shall from time to time designate as qualified to serve on such boards. When in the opinion of the Secretary of Labor the maintenance of a permanent board of special inquiry for service at any sea or land port is not warranted, regularly constituted boards may be detailed from

[24] For detailed provisions regarding boards, see Rule 12.

other stations for temporary service at such port, or, if that be impracticable, the Secretary of Labor shall authorize the creation of boards of special inquiry by the immigration officials in charge at such ports, and shall determine what Government officials or other persons shall be eligible for service on such boards. Such boards shall have authority to determine whether an alien who has been duly held shall be allowed to land or shall be deported. All hearings before such boards shall be separate and apart from the public, but the immigrant may have one friend or relative present under such regulations as may be prescribed by the Secretary of Labor. Such boards shall keep a complete permanent record of their proceedings and of all such testimony as may be produced before them; and the decisions of any two members of the board shall prevail, but either the alien or any dissenting member of the said board may appeal through the commissioner of immigration at the port of arrival and the Commissioner General of Immigration to the Secretary of Labor, and the taking of such appeal shall operate to stay any action in regard to the final disposal of any alien whose case is so appealed until the receipt by the commissioner of immigration at the port of arrival of such decision which shall be rendered solely upon the evidence adduced before the board of special inquiry.[25] In every case where an alien is excluded from admission into the United States, under any law or treaty now existing or hereafter made, the decision of a board

[25] For procedure under this provision, see Rule 15.

of special inquiry adverse to the admission of such alien shall be final, unless reversed on appeal to the Secretary of Labor: *Provided*, That the decision of a board of special inquiry shall be based upon the certificate of the examining medical officer and, except as provided in section twenty-one hereof, shall be final as to the rejection of aliens affected with tuberculosis in any form or with a loathsome or dangerous contagious disease, or with any mental or physical disability which would bring such aliens within any of the classes excluded from admission to the United States under section three of this act.

(Sec. 153.)

SEC. 18. That all aliens brought to this country in violation of law shall be immediately sent back, in accommodations of the same class in which they arrived, to the country whence they respectively came, on the vessels bringing them, unless in the opinion of the Secretary of Labor immediate deportation is not practicable or proper. The cost of their maintenance while on land, as well as the expense of the return of such aliens, shall be borne by the owner or owners of the vessels on which they respectively came. That it shall be unlawful for any master, purser, person in charge, agent, owner, or consignee of any such vessel to refuse to receive back on board thereof, or on board of any other vessel owned or operated by the same interests, such aliens; or to fail to detain them thereon; or to refuse or fail to return them in the manner aforesaid to the foreign port from which they came; or to fail to pay the cost of their maintenance while on land; or to make any charge for the return of any such alien,

consignee of the vessel: *Provided further*, That the Commissioner General of Immigration, with the approval of the Secretary of Labor, may suspend, upon conditions to be prescribed by the Commissioner General of Immigration, the deportation of any aliens found to have come in violation of any provision of this act if, in his judgment, the testimony of such alien is necessary on behalf of the United States Government in the prosecution of offenders against any provision of this act or other laws of the United States;[28] and the cost of maintenance of any person so detained resulting from such suspension of deportation, and a witness fee in the sum of $1 per day for each day such person is so detained, may be paid from the appropriation for the enforcement of this act, or such alien may be released under bond, in the penalty of not less than $500, with security approved by the Secretary of Labor, conditioned that such alien shall be produced when required as a witness and for deportation. No alien certified, as provided in section sixteen of this act, to be suffering from tuberculosis in any form, or from a loathsome or dangerous contagious disease other than one of quarantinable nature, shall be permitted to land for medical treatment thereof in any hospital in the United States, unless the Secretary of Labor is satisfied that to refuse treatment would be inhumane or cause unusual hardship or suffering, in which case the alien shall be treated in the hospital under the supervision of the immigration officials at the expense of the vessel transport-

[28] See Rule 21.

ing him:[29] *Provided further*, That upon the certificate of an examining medical officer to the effect that the health or safety of an insane alien would be unduly imperiled by immediate deportation, such alien may, at the expense of the appropriation for the enforcement of this act, be held for treatment until such time as such alien may, in the opinion of such medical officer, be safely deported: *Provided further*, That upon the certificate of an examining medical officer to the effect that a rejected alien is helpless from sickness, mental or physical disability, or infancy, if such alien is accompanied by another alien whose protection or guardianship is required by such rejected alien, such accompanying alien may also be excluded, and the master, agent, owner, or consignee of the vessel in which such alien and accompanying alien are brought shall be required to return said alien and accompanying alien in the same manner as vessels are required to return other rejected aliens.

(Sec. 154.)

SEC. 19.[30] That at any time within five years after entry, any alien who at the time of entry was a member of one or more of the classes excluded by law; any alien who shall have entered or who shall be found in the United States in violation of this act, or in violation of any other law of the United States; any alien who at any time after entry shall be found advocating or teaching the unlawful destruction of

[29] See Rule 17.

[30] For method of enforcing, see Rule 19.

or to take any security for the payment of such charge; or to take any consideration to be returned in case the alien is landed; or knowingly to bring to the United States any alien excluded or arrested and deported under any provision of law until such time as such alien may be lawfully entitled to reapply for admission to the United States,[26] and if it shall appear to the satisfaction of the Secretary of Labor that such master, purser, person in charge, agent, owner, or consignee has violated any of the foregoing provisions, or any of the provisions of section fifteen hereof, such master, purser, person in charge, agent, owner, or consignee shall pay to the collector of customs of the district in which the port of arrival is located, or in which any vessel of the line may be found, the sum of $300 for each and every violation of any provision of said sections; and no vessel shall have clearance from any port of the United States while any such fine is unpaid, nor shall such fine be remitted or refunded:[27] *Provided*, That clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a sum sufficient to cover such fine. If the vessel by which any alien ordered deported came has left the United States and it is impracticable for any reason to deport the alien within a reasonable time by another vessel owned by the same interests, the cost of deportation may be paid by the Government and recovered by civil suit from any agent, owner, or

[26] See amendment in sec. 1 (e) of act approved Mar. 4, 1929 (45 Stat. 1551), p. 20.

[27] For method of enforcing, see Rule 23.

property, or advocating or teaching anarchy, or the overthrow by force or violence of the Government of the United States or of all forms of law or the assassination of public officials; any alien who within five years after entry becomes a public charge from causes not affirmatively shown to have arisen subsequent to landing; except as hereinafter provided, any alien who is hereafter sentenced to imprisonment for a term of one year or more because of conviction in this country of a crime involving moral turpitude, committed within five years after the entry of the alien to the United States, or who is hereafter sentenced more than once to such a term of imprisonment because of conviction in this country of any crime involving moral turpitude, committed at any time after entry;[31] any alien who shall be found an inmate of or connected with the management of a house of prostitution or practicing prostitution after such alien shall have entered the United States, or who shall receive, share in, or derive benefit from any part of the earnings of any prostitute; any alien who manages or is employed by, in, or in connection with any house of prostitution or music or dance hall or other place of amusement or resort habitually frequented by prostitutes, or where prostitutes gather, or who in any way assists any prostitute or protects or promises to protect from arrest any prostitute; any alien who shall import or attempt to import any person for the purpose of prostitution or for any other immoral purpose; any alien who, after being excluded

[31] See United States ex. rel. Claussen v. Day (279 U. S. 398).

and deported or arrested and deported as a prostitute, or as a procurer, or as having been connected with the business of prostitution or importation for prostitution or other immoral purposes in any of the ways hereinbefore specified, shall return to and enter the United States; any alien convicted and imprisoned for a violation of any of the provisions of section four hereof; any alien who was convicted, or who admits the commission, prior to entry, of a felony or other crime or misdemeanor involving moral turpitude; at any time within three years after entry, any alien who shall have entered the United States by water at any time or place other than as designated by immigration officials, or by land at any place other than one designated as a port of entry for aliens by the Commissioner General of Immigration, or at any time not designated by immigration officials, or who enters without inspection, shall, upon the warrant of the Secretary of Labor, be taken into custody and deported: *Provided,* That the marriage to an American citizen of a female of the sexually immoral classes the exclusion or deportation of which is prescribed by this act shall not invest such female with United States citizenship if the marriage of such alien female shall be solemnized after her arrest or after the commission of acts which make her liable to deportation under this act:[32] *Provided further,* That the provision of this section respecting the deportation of aliens convicted of a crime involving moral turpitude shall not apply to one who has been pardoned,

[32] See act of Sept. 22, 1922 (42 Stat. 1021), p. 8.

nor shall such deportation be made or directed if the court, or judge thereof, sentencing such alien for such crime shall, at the time of imposing judgment or passing sentence or within thirty days thereafter, due notice having first been given to representatives of the State, make a recommendation to the Secretary of Labor that such alien shall not be deported in pursuance of this act; nor shall any alien convicted as aforesaid be deported until after the termination of his imprisonment: *Provided further,* That the provisions of this section, with the exceptions hereinbefore noted, shall be applicable to the classes of aliens therein mentioned irrespective of the time of their entry into the United States: *Provided further,* That the provisions of this section shall also apply to the cases of aliens who come to the mainland of the United States from the insular possessions thereof: *Provided further,* That any person who shall be arrested under the provisions of this section, on the ground that he has entered or been found in the United States in violation of any other law thereof which imposes on such person the burden of proving his right to enter or remain, and who shall fail to establish the existence of the right claimed, shall be deported to the place specified in such other law. In every case where any person is ordered deported from the United States under the provisions of this act, or of any law or treaty, the decision of the Secretary of Labor shall be final.

(Sec. 155.)

SEC. 20. That the deportation of aliens provided for in this act shall, at the option of the Secretary of Labor, be to

the country whence they came or to the foreign port at which such aliens embarked for the United States; or, if such embarkation was for foreign contiguous territory, to the foreign port at which they embarked for such territory; or, if such aliens entered foreign contiguous territory from the United States and later entered the United States, or if such aliens are held by the country from which they entered the United States not to be subjects or citizens of such country, and such country refuses to permit their reentry, or imposes any condition upon permitting reentry, then to the country of which such aliens are subjects or citizens, or to the country in which they resided prior to entering the country from which they entered the United States. If deportation proceedings are instituted at any time within five years after the entry of the alien, such deportation, including one-half of the entire cost of removal to the port of deportation, shall be at the expense of the contractor, procurer, or other person by whom the alien was unlawfully induced to enter the United States, or, if that can not be done, then the cost of removal to the port of deportation shall be at the expense of the appropriation for the enforcement of this act, and the deportation from such port shall be at the expense of the owner or owners of such vessels or transportation lines by which such aliens respectively came, or, if that is not practicable, at the expense of the appropriation for the enforcement of this act. If deportation proceedings are instituted later than five years after the entry of the aliens, or, if the deportation is made by reason of causes arising subsequent to entry, the cost thereof shall be payable

from the appropriation for the enforcement of this act. A failure or refusal on the part of the masters, agents, owners, or consignees of vessels to comply with the order of the Secretary of Labor to take on board, guard safely, and transport to the destination specified any alien ordered to be deported under the provisions of this act shall be punished by the imposition of the penalties prescribed in section eighteen of this act:[33] *Provided,* That when in the opinion of the Secretary of Labor the mental or physical condition of such alien is such as to require personal care and attendance, the said Secretary shall when necessary employ a suitable person for that purpose, who shall accompany such alien to his or her final destination, and the expense incident to such service shall be defrayed in the same manner as the expense of deporting the accompanied alien is defrayed.[34] Pending the final disposal of the case of any alien so taken into custody, he may be released under a bond in the penalty of not less than $500 with security approved by the Secretary of Labor, conditioned that such alien shall be produced when required for a hearing or hearings in regard to the charge upon which he has been taken into custody, and for deportation if he shall be found to be unlawfully within the United States.

(Sec. 156.)

SEC. 21. That any alien liable to be excluded because likely to become a public charge or because of physical disability other than tuberculosis in any form or a loathsome or

[33] See Rule 23.

[34] See Rule 20.

dangerous contagious disease may, if otherwise admissible, nevertheless be admitted in the discretion of the Secretary of Labor upon the giving of a suitable and proper bond or undertaking, approved by said Secretary, in such amount and containing such conditions as he may prescribe, to the United States and to all States, Territories, counties, towns, municipalities, and districts thereof, holding the United States and all States, Territories, counties, towns, municipalities, and districts thereof harmless against such alien becoming a public charge. In lieu of such bond, such alien may deposit in cash with the Secretary of Labor such amount as the Secretary of Labor may require, which amount shall be deposited by said Secretary in the United States Postal Savings Bank, a receipt therefor to be given the person furnishing said sum showing the fact and object of its receipt and such other information as said Secretary may deem advisable. All accruing interest on said deposit during the time same shall be held in the United States Postal Savings Bank shall be paid to the person furnishing the sum for deposit. In the event of such alien becoming a public charge, the Secretary of Labor shall dispose of said deposit in the same manner as if same had been collected under a bond as provided in this section. In the event of the permanent departure from the United States, the naturalization, or the death of such alien, the said sum shall be returned to the person by whom furnished, or to his legal representatives. The admission of such alien shall be a consideration for the giving of such bond, undertaking, or cash deposit. Suit may be brought thereon in the name and by

the proper law officers either of the United States Government or of any State, Territory, District, country, town, or municipality in which such alien becomes a public charge.

(Sec. 158.)

SEC. 22.[35] That whenever an alien shall have been naturalized or shall have taken up his permanent residence in this country, and thereafter shall send for his wife or minor children to join him, and said wife or any of said minor children shall be found to be affected with any contagious disorder, such wife or minor children shall be held, under such regulations as the Secretary of Labor shall prescribe, until it shall be determined whether the disorder will be easily curable or whether they can be permitted to land without danger to other persons; and they shall not be either admitted or deported until such facts have been ascertained; and if it shall be determined that the disorder is easily curable and the husband or father or other responsible person is willing to bear the expense of the treatment, they may be accorded treatment in hospital until cured and then be admitted, or if it shall be determined that they can be permitted to land without danger to other persons, they may, if otherwise admissible, thereupon be admitted: *Provided,* That if the person sending for wife or minor children is naturalized, a wife to whom married or a minor child born subsequent to such husband or father's naturalization shall be admitted without detention for treatment in hospital, and with respect to a

[35] For method of enforcing, see Rule 17.

wife to whom married or a minor child born prior to such husband or father's naturalization the provisions of this section shall be observed, even though such person is unable to pay the expense of treatment, in which case the expense shall be paid from the appropriation for the enforcement of this act.

(Sec. 159.)

SEC. 23. That the Commissioner General of Immigration shall perform all his duties under the direction of the Secretary of Labor. Under such direction he shall have charge of the administration of all laws relating to the immigration of aliens into the United States, and shall have the control, direction, and supervision of all officers, clerks, and employees appointed thereunder; he shall establish such rules and regulations, prescribe such forms of bond, reports, entries, and other papers, and shall issue from time to time such instructions not inconsistent with law, as he shall deem best calculated for carrying out the provisions of this act and for protecting the United States and aliens migrating thereto from fraud and loss, and shall have authority to enter into contract for the support and relief of such aliens as may fall into distress or need public aid, and to remove to their native country, at any time within three years after entry, at the expense of the appropriations for the enforcement of this act, such as fall into distress or need public aid from causes arising subsequent to their entry and are desirous of being so removed; he shall prescribe rules for the entry and inspection of aliens coming to the United States from or

through Canada and Mexico, so as not unnecessarily to delay, impede, or annoy persons in ordinary travel between the United States and said countries, and shall have power to enter into contracts with transportation lines for the said purpose.[36] It shall be the duty of the Commissioner General of Immigration to detail officers of the Immigration Service from time to time as may be necessary, in his judgment, to secure information as to the number of aliens detained in the penal, reformatory, and charitable institutions (public and private) of the several States and Territories, the District of Columbia, and other territory of the United States, and to inform the officers of such institutions of the provisions of law in relation to the deportation of aliens who have become public charges. He may, with the approval of the Secretary of Labor, whenever in his judgment such action may be necessary to accomplish the purposes of this act, detail immigration officers for service in foreign countries; and, upon his request, approved by the Secretary of Labor, the Secretary of the Treasury may detail medical officers of the United States Public Health Service for the performance of duties in foreign countries in connection with the enforcement of this act. The duties of commissioners of immigration and other immigration officials in charge of districts, ports, or stations shall be of an administrative character, to be prescribed in detail by regulations prepared under the direction or with the approval of the Secretary of Labor: *Provided,*

[36] See sec. 17, immigration act of 1924, p. 13.

That no person, company, or transportation line engaged in carrying alien passengers for hire from Canada or Mexico to the United States, whether by land or water, shall be allowed to land any such passengers in the United States without providing suitable and approved landing stations, conveniently located, at the point or points of entry. The Commissioner General of Immigration is hereby authorized and empowered to prescribe the conditions, not inconsistent with law, under which the above-mentioned landing stations shall be deemed suitable within the meaning of this section. Any person, company, or transportation line landing an alien passenger in the United States without compliance with the requirement herein set forth shall be deemed to have violated section eight of this act, and upon conviction shall be subject to the penalty therein prescribed: *Provided further*, That for the purpose of making effective the provisions of this section relating to the protection of aliens from fraud and loss, and also the provisions of section thirty of this act, relating to the distribution of aliens, the Secretary of Labor shall establish and maintain immigrant stations at such interior places as may be necessary, and, in the discretion of the said Secretary, aliens in transit from ports of landing to such interior stations shall be accompanied by immigrant inspectors: *Provided further*, That in prescribing rules and making contracts for the entry and inspection of aliens applying for admission from or through foreign contiguous territory, due care shall be exercised to avoid any discriminatory action in favor of foreign transportation companies transporting to such territory aliens destined to the United States, and all such transportation companies shall be required, as a condition precedent to the inspection or examination under such rules and contracts at the ports of such contiguous territory of aliens brought thereto by them, to submit to and comply with all the requirements of this act which would apply were they bringing such aliens directly to seaports of the United States, and, from and after the taking effect of this act, no alien applying for admission from foreign contiguous territory shall be permitted to enter the United States unless upon proving that he was brought to such territory by a transportation company which had submitted to and complied with all the requirements of this act, or that he entered, or has resided in, such territory more than two years prior to the date of his application for admission to the United States.

(Secs. 101, 102, 108, 160.)

SEC. 24. That immigrant inspectors and other immigration officers, clerks, and employees shall hereafter be appointed and their compensation fixed and raised or decreased from time to time by the Secretary of Labor, upon the recommendation of the Commissioner General of Immigration and in accordance with the provisions of the civil-service act of January sixteenth, eighteen hundred and eighty-three: *Provided*, That said Secretary, in the enforcement of that portion of this act which excludes contract laborers and induced and assisted immigrants, may employ, for such purposes and for detail upon additional service under this act when not so en-

gaged, without reference to the provisions of the said civil-service act, or to the various acts relative to the compilation of the Official Register, such persons as he may deem advisable and from time to time fix, raise, or decrease their compensation. He may draw annually from the appropriation for the enforcement of this act $100,000, or as much thereof as may be necessary, to be expended for the salaries and expenses of persons so employed and for expenses incident to such employment; and the accounting officers of the Treasury shall pass to the credit of the proper disbursing officer expenditures from said sum without itemized account whenever the Secretary of Labor certifies that an itemized account would not be for the best interests of the Government: *Provided further,* That nothing herein contained shall be construed to alter the mode of appointing commissioners of immigration at the several ports of the United States as provided by the sundry civil appropriation act approved August eighteenth, eighteen hundred and ninety-four, or the official status of such commissioners heretofore appointed.

Immigrant inspectors shall be divided into five grades, as follows: Grade 1, salary $2,100; grade 2, salary $2,300; grade 3, salary $2,500; grade 4, salary $2,700; grade 5, salary $3,000; and, hereafter, inspectors shall be promoted successively to grades 2 and 3 at the beginning of the next quarter following one year's satisfactory service (determined by a standard of efficiency which is to be defined by the Commissioner General of Immigration, with the approval of the Secretary of Labor) in the next lower grade; not to exceed

50 per centum of the force to grades 4 and 5 for meritorious service after no less than one year's service in grades 3 and 4, respectively: *Provided further,* That promotion above grade 3 shall be at the discretion of the Secretary of Labor, upon the recommendation of the Commissioner General of Immigration: *Provided further,* That when inspectors or other employees of the Immigration Service are ordered to perform duty in a foreign country, or transferred from one station to another, in a foreign country, they shall be allowed their traveling expenses in accordance with such regulations as the Secretary of Labor may deem advisable, and they may also be allowed, within the discretion and under written orders of the Secretary of Labor, the expenses incurred for the transfer of their wives and dependent minor children; their household effects and other personal property, not exceeding in all five thousand pounds, including the expenses for packing, crating, freight, and drayage thereof: *Provided further,* That the appropriation of such sum as may be necessary for the enforcement of this act is hereby authorized.[37]

(Sec. 109.)

SEC. 25. That the district courts of the United States are hereby invested with full jurisdiction of all causes, civil and criminal, arising under any of the provisions of this act. That it shall be the duty of the United States district attorney of the proper district to prosecute every such suit when brought by the United States under this act. Such prosecu-

[37] Last paragraph of sec. 24 is the amendment of May 29, 1928 (45 Stat. 954).

tions or suits may be instituted at any place in the United States at which the violation may occur or at which the person charged with such violation may be found. That no suit or proceeding for a violation of the provisions of this act shall be settled, compromised, or discontinued without the consent of the court in which it is pending, entered of record, with the reasons therefor.

(Sec. 164.)

SEC. 26. That all exclusive privileges of exchanging money, transporting passengers or baggage, or keeping eating houses, and all other like privileges in connection with any United States immigrant station, shall be disposed of to the lowest responsible and capable bidder, after public competition, notice of such competitive bidding having been made in two newspapers of general circulation for a period of two weeks, subject to such conditions and limitations as the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Labor, may prescribe, and all receipts accruing from the disposal of privileges shall be paid into the Treasury of the United States. No such contract shall be awarded to an alien. No intoxicating liquors shall be sold at any such immigration station.

(Sec. 115.)

SEC. 27. That for the preservation of the peace and in order that arrests may be made for crimes under the laws of the States and Territories of the United States where the various immigrant stations are located, the officers in charge of such stations, as occasion may require, shall admit therein

the proper State and municipal officers charged with the enforcement of such laws, and for the purpose of this section the jurisdiction of such officers and of the local courts shall extend over such stations.

(Sec. 116.)

SEC. 28. That any person who knowingly aids or assists any anarchist or any person who believes in or advocates the overthrow by force or violence of the Government of the United States, or who disbelieves in or is opposed to organized government, or all forms of law, or who advocates the assassination of public officials, or who is a member of or affiliated with any organization entertaining or teaching disbelief in or opposition to organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character, to enter the United States, or who connives or conspires with any person or persons to allow, procure, or permit any such anarchist or person aforesaid to enter therein, shall be deemed guilty of a felony, and on conviction thereof shall be punished by a fine of not more than $5,000 or by imprisonment for not more than five years, or both.

Any person who knowingly aids or assists any alien who advocates or teaches the unlawful destruction of property to enter the United States shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine

of not more than $1,000, or by imprisonment for not more than six months, or by both such fine and imprisonment.

(Sec. 163.)

SEC. 29. That the President of the United States is authorized, in the name of the Government of the United States, to call, in his discretion, an international conference, to assemble at such point as may be agreed upon, or to send special commissioners to any foreign country, for the purpose of regulating by international agreement, subject to the advice and consent of the Senate of the United States, the immigration of aliens to the United States; of providing for the mental, moral, and physical examination of such aliens by American consuls or other officers of the United States Government at the ports of embarkation, or elsewhere; of securing the assistance of foreign Governments in their own territories to prevent the evasion of the laws of the United States governing immigration to the United States; of entering into such international agreements as may be proper to prevent the immigration of aliens who, under the laws of the United States, are or may be excluded from entering the United States, and of regulating any matters pertaining to such immigration.

(Sec. 177.)

SEC. 30. That there shall be maintained a division of information in the Bureau of Immigration; and the Secretary of Labor shall provide such clerical and other assistance as may be necessary. It shall be the duty of said division to promote a beneficial distribution of aliens admitted into the

United States among the several States and Territories desiring immigration. Correspondence shall be had with the proper officials of the States and Territories, and said division shall gather from all available sources useful information regarding the resources, products, and physical characteristics of each State and Territory, and shall publish such information in different languages and distribute the publications among all admitted aliens at the immigrant stations of the United States and to such other persons as may desire the same. When any State or Territory appoints and maintains an agent or agents to represent it at any of the immigrant stations of the United States, such agents shall, under regulations prescribed by the Commissioner General of Immigration, subject to the approval of the Secretary of Labor, have access to aliens who have been admitted to the United States for the purpose of presenting, either orally or in writing, the special inducements offered by such State or Territory to aliens to settle therein. While on duty at any immigrant station such agents shall be subject to all the regulations prescribed by the Commissioner General of Immigration, who, with the approval of the Secretary of Labor, may, for violation of any such regulations, deny to the agent guilty of such violation any of the privileges herein granted.

(Sec. 105.)

SEC. 31. That any person, including the owner, agent, consignee, or master of any vessel arriving in the United States from any foreign port or place, who shall knowingly sign on the ship's articles, or bring to the United States as

one of the crew of such vessel, any alien, with intent to permit such alien to land in the United States in violation of the laws and treaties of the United States regulating the immigration of aliens, or who shall falsely and knowingly represent to the immigration authorities at the port of arrival that any such alien is a bona fide member of the crew, shall be liable to a penalty not exceeding $5,000, for which sum the said vessel shall be liable and may be seized and proceeded against by way of libel in any district court of the United States having jurisdiction of the offense.

(Sec. 165.)

SEC. 32. (Repealed by section 20(d) of the immigration act of 1924, but shall remain in force as to all vessels, their owners, agents, consignees and masters, and as to all seamen arriving in the United States prior to the enactment of this act.)

SEC. 33. That it shall be unlawful and be deemed a violation of the preceding section to pay off or discharge any alien employed on board any vessel arriving in the United States from any foreign port or place, unless duly admitted pursuant to the laws and treaties of the United States regulating the immigration of aliens: *Provided*, That in case any such alien intends to reship on board any other vessel bound to any foreign port or place, he shall be allowed to land for the purpose of so reshipping, under such regulations as the Secretary of Labor may prescribe to prevent aliens not admissible under any law, convention, or treaty from remaining permanently in the United States, and may

be paid off, discharged, and permitted to remove his effects, anything in such laws or treaties or in this act to the contrary notwithstanding, provided due notice of such proposed action be given by the master or the seaman himself to the principal immigration officer in charge at the port of arrival.

(Sec. 168.)

SEC. 34. That any alien seaman who shall land in a port of the United States contrary to the provisions of this act shall be deemed to be unlawfully in the United States, and shall, at any time within three years thereafter, upon the warrant of the Secretary of Labor, be taken into custody and brought before a board of special inquiry for examination as to his qualifications for admission to the United States, and if not admitted said alien seaman shall be deported at the expense of the appropriation for this act as provided in section twenty of this act.

(Sec. 166.)

SEC. 35.[39] That it shall be unlawful for any vessel carrying passengers between a port of the United States and a port of a foreign country upon arrival in the United States, to have on board employed thereon any alien afflicted with idiocy, imbecility, insanity, epilepsy, tuberculosis in any form, or a loathsome or dangerous contagious disease, if it appears to the satisfaction of the Secretary of Labor, from an examination made by a medical officer of the United States Public Health Service, and is so certified by such

[39] For method of enforcing, see Rule 23.

officer, that any such alien was so afflicted at the time he was shipped or engaged and taken on board such vessel and that the existence of such affliction might have been detected by means of a competent medical examination at such time; and for every such alien so afflicted on board any such vessel at the time of arrival the owner, agent, consignee, or master thereof shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $50, and pending departure of the vessel the alien shall be detained and treated in hospital under supervision of immigration officials at the expense of the vessel; and no vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine and while it remains unpaid: *Provided,* That clearance may be granted prior to the determination of such question upon the deposit of a sum sufficient to cover such fine: *Provided further,* That such fine may, in the discretion of the Secretary of Labor, be mitigated or remitted.[40]

(Sec. 169.)

SEC. 36.[41] That upon arrival of any vessel in the United States from any foreign port or place it shall be the duty of the owner, agent, consignee, or master thereof to deliver to the principal immigration officer in charge of the port of arrival lists containing the names of all aliens employed on

[40] Treatment in hospital of diseased seamen. See act approved Dec. 26, 1920 (41 Stat. 1082), p. 76.

[41] For method of enforcing, see Rule 23.

such vessel, stating the positions they respectively hold in the ship's company, when and where they were respectively shipped or engaged, and specifying those to be paid off and discharged in the port of arrival; or lists containing so much of such information as the Secretary of Labor shall by regulation prescribe; and after the arrival of any such vessel it shall be the duty of such owner, agent, consignee, or master to report to such immigration officer, in writing, as soon as discovered, all cases in which any such alien has illegally landed from the vessel, giving a description of such alien, together with any information likely to lead to his apprehension; and before the departure of any such vessel it shall be the duty of such owner, agent, consignee, or master to deliver to such immigration officer a further list containing the names of all alien employees who were not employed thereon at the time of the arrival but who will leave port thereon at the time of her departure, and also the names of those, if any, who have been paid off and discharged, and of those, if any, who have deserted or landed; and in case of the failure of such owner, agent, consignee, or master so to deliver either of the said lists of such aliens arriving and departing, respectively, or so to report such cases of desertion or landing, such owner, agent, consignee, or master shall, if required by the Secretary of Labor, pay to the collector of customs of the customs district in which the port of arrival is located the sum of $10 for each alien concerning whom correct lists are not delivered or a true report is not made as above required; and no such vessel

shall be granted clearance pending the determination of the question of the liability to the payment of such fine, and, in the event such fine is imposed, while it remains unpaid; nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such question upon deposit of a sum sufficient to cover such fine.

(Sec. 171.)

SEC. 37. That the word "person" as used in this act shall be construed to import both plural and the singular, as the case may be, and shall include corporations, companies, and associations. When construing and enforcing the provisions of this act, the act, omission, or failure of any director, officer, agent, or employee of any corporation, company, or association acting within the scope of his employment or office shall in every case be deemed to be the act, omission, or failure of such corporation, company, or association, as well as that of the person acting for or in behalf of such corporation, company, or association.

(Sec. 173.)

SEC. 38. That this act, except as otherwise provided in section three, shall take effect and be enforced on and after May first, nineteen hundred and seventeen. The act of March twenty-sixth, nineteen hundred and ten, amending the act of February twentieth, nineteen hundred and seven, to regulate the immigration of aliens into the United States; the act of February twentieth, nineteen hundred and seven, to regulate the immigration of aliens into the United States, except section thirty-four thereof; the act of March third,

nineteen hundred and three, to regulate the immigration of aliens into the United States, except section thirty-four thereof; and all other acts and parts of acts inconsistent with this act are hereby repealed on and after the taking effect of this act: *Provided*, That this act shall not be construed to repeal, alter, or amend existing laws relating to the immigration or exclusion of Chinese persons or persons of Chinese descent, except as provided in section nineteen hereof, nor to repeal, alter, or amend section six, chapter four hundred and fifty-three, third session Fifty-eighth Congress, approved February sixth, nineteen hundred and five, nor to repeal, alter, or amend the act approved August second, eighteen hundred and eighty-two, entitled "An act to regulate the carriage of passengers by sea," and amendments thereto, except as provided in section eleven hereof: *Provided further*, That nothing contained in this act shall be construed to affect any prosecution, suit, action, or proceedings brought, or any act, thing, or matter, civil or criminal, done or existing at the time of the taking effect of this act, except as mentioned in the third proviso of section nineteen hereof; but as to all such prosecutions, suits, actions, proceedings, acts, things, or matters, the laws or parts of laws repealed or amended by this act are hereby continued in force and effect.

(Sec. 178.)

附屬書第七十八號　寫眞結婚婦人ニ對スル讀書試驗免除方ニ關スル在米大使館國務省間ノ往復文

No. 1.

April 17, 1917.

My dear Mr. Lockhart,

In compliance with your verbal request of yesterday, I am sending you, as enclosed, a formal note transmitting an excerpt from the Japanese Civil Code which, I hope, will meet the purpose we have in view. I beg to add, by way of confirmation of what I told you yesterday that each Japanese wife in question is expected to bring besides her passport, a certified copy of her family register (koseki-tohon) in which her marriage is duly recorded. In case that prove inadequate to your authorities concerned, we are ready to recommend to our Government to conform to whatever specific requirements for documentary evidence that your authorities might prescribe in the premises, provided a similar condition is imposed on the corresponding class of immigrants from other countries.

Yours very truly,

(Signed) T. Tanaka.

Mr. Frank P. Lockhart,
Bureau of Far Eastern Affairs,
Department of State.

[Enclosure]

Imperial Japanese Embassy,
Washington.

The Japanese Ambassador presents his compliments to the Secretary of State and begs to transmit herewith for his information and such disposition as he may deem advisable, an excerpt from the Japanese Civil Code,* bearing on the subject of Marriage.

April 17, 1917.

No. 2.

Department of State,
Washington.

April 28, 1917.

Excellency:

Referring to your memorandum of April 17, 1917, accompanying a transcript of the Japanese law relating to marriage, I have the honor to enclose herewith the copy of a letter from the Department of Labor asking for further information upon the subject of marriage by proxy.

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* 民法抜萃譯文ハ省略ス

Accept, Excellency, the renewed assurances of my highest consideration.

(Signed) Robert Lansing.

His Excellency
Mr. Aimaro Sato,
Japanese Ambassador.

[Enclosure]

Department of Labor,
Office of the Assistant Secretary,
Washington.

April 24, 1917.

The Honorable,
The Secretary of State.

Sir:

Referring to your letter of the 18th instant, with which you transmit copy of a memorandum from the Japanese Ambassador with an excerpt from the Japanese Civil Code bearing on the subject of marriage, I beg to state that the purpose of the request, made informally by the Bureau of Immigration of this Department, with respect to this subject was to ascertain, not only what the exact terms of the law of Japan with respect to marriage may be, but also whether the laws of Japan provide for and make legal a marriage contracted

under such laws while one party to the marriage is actually in a foreign jurisdiction and the other party is living in Japan on the date the marriage takes place. In other words, does the law of Japan provide for and recognize as legal the marriage of a couple one of whom, at the date of marriage, is in a foreign jurisdiction and the other of whom is in Japan, in the same sense and to the same degree as though both parties to the marriage were actually in Japan at the time the marriage was contracted.

A provision of the immigration law becoming effective May 5th excludes from the United States illiterate aliens, with certain exceptions, one of which is that an alien residing in this country may send for his wife and the latter may be admitted although illiterate, if otherwise admissible. In preparing regulations putting this law into effect, there is no intention to permit the said exception to be availed of by an unmarried woman who comes to a United States port and claims upon arrival that she has been sent for by a man in the United States who is desirous of marrying her at the port before her admission; that is, it is not intended to permit an illiterate woman to qualify for admission, on the claim that she is the wife of a man in the United States, by marrying a resident man after such woman has applied for entry, or by claiming that she is the wife of a man in the United States when in point of fact the laws of the country whence she comes do not provide for and make legal and binding the kind of marriage claimed to have taken place.

In view of the above, it is necessary for the Department

to reach a definite conclusion as to whether or not the so-called "picture" or "proxy" brides who come to this country from Japan are regarded in that country and under the laws thereof as actually being the wives of the men to whom they claim to have been married while they were residing in Japan and the men living here, under the provisions of existing laws providing therefor. The excerpt from the Japanese law furnished by the Ambassador contains nothing, so far as this Department has been able to determine, that would justify, of itself, the conclusion that these marriages are provided for by existing laws and recognized as complete, legal and binding in Japan.

Respectfully,
Louis F. Post,
Assistant Secretary.

No. 3.

Imperial Japanese Embassy,
Washington.

April 28, 1917.

Sir:

I have the honor to acknowledge receipt of your note of even date transmitting to me copy of a letter from the Department of Labor asking for further information upon the subject of the so-called "picture brides".

In elucidation of the point inquired about by the Department of Labor and in amplification of my previous memorandum on this subject, I beg to state that in the law of Japan it is provided that marriage is complete and takes effect immediately upon its being notified either in writing or orally to the Registrar by both parties with the participation in the act of at least two witnesses of full age and its being accepted by him; that if a document is employed for such notification it must be personally signed and sealed by the parties and the witnesses, but it is not necessary that the parties personally appear before the Registrar; that if the notification is made orally both the parties and their witnesses must personally appear before the Registrar.

There is no provision in the Japanese law specifically for a case where one of the parties to a marriage contract lives in Japan and the other under foreign jurisdiction nor has there appeared before the court any case involving this point for the reason that the places of actual residence of the parties concerned form no essential requirement for a marriage to be legalized. Such being the essence of the formal marriage in Japan, a Japanese man residing in this country can marry a Japanese woman residing in Japan by personally signing and affixing his seal to the document to be presented before the Registrar in Japan and the validity of such marriage is amply attested by the issuance of certified copy of the family registry bearing the official seal of the Registrar which document the so-called "picture bride" proceeding to this country is always provided with.

I may add that the marriage system of Japan being as hereinbefore stated, it would be inappropriate to use the phrase " marriage by proxy " in relation to the subject under consideration.

Accept, Sir, the renewed assurances of my highest consideration.

(Signed) A. Sato.

Honorable Robert Lansing,
Secretary of State.

No. 4.

Department of State,
Washington.

May 7, 1917.

Excellency:

I have the honor to acknowledge the receipt of your note of April 28, 1917, replying to mine of that date communicating the request of the Labor Department for further information upon the subject of the so-called " picture brides."

A copy of your note was transmitted immediately to the Honorable the Secretary of Labor for his consideration. I now have the honor to inform you that on May 5th I received from the Assistant Secretary of Labor a note stating that the Department of Labor had sent a telegram to the immigration officers in charge at the ports of San

Francisco, California; Seattle, Washington; Honolulu, T. H., and Vancouver, B. C., reading as follows:

" Unless and until other instructions are received accept certified copy of record of registrar *supplemented by certified copy of notification to registrar by party living in United States as sufficient evidence* of marriage in Japanese picture bride cases to justify exempting from illiteracy test. Concerning those now en route certified copy registrar's record may be accepted with stipulation that of notification will be supplied later. Discontinue requiring marriage picture brides after arrival."

Accept, Excellency, the renewed assurances of my highest consideration.

His Excellency
Mr. Aimaro Sato,
Japanese Ambassador.

(Signed) Robert Lansing.

No. 5.

Imperial Japanese Embassy,
Washington.

May 18, 1917.

Sir:

I have the honor to acknowledge with thanks the receipt of your note No. 25 of the 7th of this month regarding

an arrangement made by the Department of Labor for the exemption from the literacy test of the "picture brides" now en route to this country on the condition that a certified copy of their marriage notification will later be sent in.

The tenor of your note has forthwith been communicated to Viscount Motono who now instructs me to ask you whether it would not be possible to have that arrangement extended also to those "picture brides" who will leave Japan before the end of this month, inasmuch as it takes a certain length of time before all registrars throughout the Empire shall have duly been notified about the matter.

I am moreover authorized to state that, if your Government deems it necessary, an instruction will be issued to our Consuls to expedite the presentation by the parties concerned of the prescribed documents and in cases, which will in fact be very rare, where they fail to fulfill the requirement, to exercise their endeavours as far as possible within the limits of their competency to effect the reappearance of such "picture brides" before the immigration officers.

Accept, Sir, the renewed assurances of my highest consideration.

(Signed) Aimaro Sato.

Honorable Robert Lansing,
Secretary of State.

No. 6.

Department of State,
Washington.
May 28, 1917.

Excellency:

I have the honor to acknowledge the receipt of your note of May 18, 1917, inquiring whether it would be possible for the Department of Labor to exempt from the literacy test the "picture brides" who may leave Japan before the end of this month.

In reply I have the honor to state that a copy of the note under acknowledgment was sent to the Department of Labor for its consideration and for such action as it might deem proper. A copy of that Department's reply, dated May 23, 1917, is enclosed herewith.

I am gratified to note that the Department of Labor believes that no cases will arise such as described in Your Excellency's note of May 18, 1917, inasmuch as trans-Pacific steamship lines will doubtless decline to accept passengers not in possession of documents of the kind which they are required to present on arriving at a port of this country.

Accept, Excellency, the renewed assurances of my highest consideration.

(Signed) Robert Lansing.

His Excellency
Mr. Aimaro Sato,
Japanese Ambassador.

[Enclosure]

May 23, 1917.

The Honorable,
The Secretary of State.

Sir:

I have the honor to acknowledge the receipt of your letter of the 18th instant, inclosing copy of a note from the Japanese Ambassador, asking whether it would be possible for this Department to extend its telegraphic instruction heretofore given with regard to cases of arriving "picture brides" so as to permit all of the women of that status who may embark at ports of Japan for the United States during the month of May to be admitted with the understanding that the certified copy of the notification sent by the bridegroom in the United States to the registrar of marriages in Japan will be furnished at a later date.

As you know, the Department in its previous telegraphic instructions, issued on the basis of its conclusion, reached tentatively pending the possible procurement of additional information on the subject and more deliberate consideration, to exempt "picture brides" from the illiteracy test, voluntarily stipulated that with respect to such of the "picture brides" as might have already embarked and be en route to the United States at the time of the issuance of the instruction should be exempted from the illiteracy test and

landed (if otherwise admissible) with the understanding in each instance that the certified copies required as proof of registration of marriage would be forthcoming at a later date. In giving this instruction the Department went further than is usual in matters of this kind. Ordinarily the instruction would have been not to deport but to hold the applicant in the immigration station until the papers might be sent for and obtained. The Department regrets that it cannot comply with the Ambassador's present request. To do so would establish a precedent in matters of this kind which it could ill afford to set up and which if established would have to be followed (if the Department were to be consistent) in connection with similar questions arising with respect to immigration from Europe as well as from Asia. It has always been customary for the Department to assume that steamship lines, immediately upon becoming acquainted with a law and the rules and practices established thereunder, will decline to sell transportation to aliens not in possession of documents of the kind they will be required to present on arriving at a port of this country; and the Department knows of no reason why the transportation lines engaged in bringing immigrants from Japan should not be expected to act in this regard in the same way that the trans-Atlantic lines are expected to act, and if they do follow the indicated course of action the subject of the Ambassador's request is automatically cared for, without this Department being re-

quired to do something affecting such companies which it has not heretofore done and would not care to do for the trans-Atlantic companies.

Respectfully,

Assistant Secretary.

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No. 1.

Imperial Japanese Embassy,
Washington.

June 4, 1917.

Sir:

In the note you did me the honor to address me under date of May 7, 1917, you are good enough to advise me of the decision of the Department of Labor to the effect that a certified copy of the record of the Registrar, supplemented by a certified copy of the notification of a marriage with the signature and seal of the party residing in this country, will be accepted as sufficient evidence of a marriage in the so-called Japanese "picture bride" cases.

With a view to comply with the wishes of the United States Government, the Japanese Foreign Office has conferred with the Japanese Department of Justice which has jurisdiction over the family registry affairs to arrange for the issuance of the copy of the record of the family registry in favor of the so-called "picture brides" planning to proceed

to the United States. In the attempt to enforce the new arrangement, the Department of Justice has found itself confronted with certain technical difficulties incidental to the fact that it has never before been required to issue the copy of the original notification in order to certify to the legal validity of a marriage, the copy of the record of the family registry part of which forms the conclusive proof of acceptance by the local Registrar of the notification of a marriage, either verbal or written, having always been held as the only necessary document for that purpose. Such being the case, while the Department of Justice was expediting investigations as to the manner in which the required papers were to be issued, it was found that several weeks would be needed for the completion of the new arrangements. It was in these circumstances that I had the honor to address to you, under instructions from Tokio, my note dated May 18 requesting to have prolonged the period of exemption from the literacy test of the so-called "picture brides" on the condition that the certified copy of the notification would be furnished at a later date, to which you were good enough to reply, under date of May 28, communicating to me the impossibility of making such arrangement on the part of your Government on the ground that it would establish a precedent preferential to the Japanese "picture brides" which the United States Department of Labor could ill afford to let stand.

In Japan the family registry record serves to attest conclusively to the legality of a marriage; whereas, in this

country, lacking a similar system of registry, more importance is, I understand, attached to the certificate of marriage. Every Japanese subject is required by law to register his or her name in family groups, the date of birth and all family relations, in the family registry record, which is kept at the family registry office governing the district where the parties concerned have their permanent domicile, and the party concerned or any third party may at any time apply for a certified copy of the record which can be obtained in two forms, either a complete record of one family or an excerpt in reference to a particular member thereof. There not being provided for in the Japanese law or custom the issuance of the marriage certificate and there obtaining throughout the Empire a complete system of family registry as alluded to hereinbefore, the certified copy of the family registry record corresponds for all legal and practical purposes to the marriage certificate of Western nations.

Such being the theory of the issuance of the copy of the family registry record, and moreover the issuance of the copy of the notification of a marriage involving technical difficulties as stated above, I have now the honor to request, pursuant to instructions from Viscount Motono, that such copy of the family registry record may be regarded by the United States Government as falling within the scope of "other convincing proof of the performance of the marriage ceremony" provided for in the Immigration Rules of May 1, 1917; and that the so-called "picture brides" be exempt from the operation of the literacy test on the strength of

the certified copy of the family registry record, and without the presentation of the copy of the notification.

I am also instructed to add that in case the American Government deems it difficult to comply with the present request of the Japanese Government for any reason arising from the technicalities of the Immigration Rules, the Japanese Government is prepared, with a view to meet the requirements as fully as possible under the different systems of civil law obtaining in our two countries, to inaugurate an arrangement for issuing at the hands of the local Registrar a certificate attesting to the legal validity of a marriage in favor of the "picture brides" planning to proceed to the United States.

Accept, Sir, the renewed assurances of my highest consideration.

(Signed) Aimaro Sato.

Honorable Robert Lansing,
Secretary of State.

No. 2.

Department of State,
Washington.

July 7, 1917.

Excellency:

I have the honor to acknowledge the receipt of your

note of June 4, 1917, relative to the admission of Japanese "picture brides" to the United States under the new immigration law.

A copy of Your Excellency's note above mentioned was promptly sent to the Honorable the Secretary of Labor for his consideration. I have the honor now to enclose a copy of a letter dated June 27, 1917, from the Department of Labor, giving a review of previous correspondence on this subject and outlining a course of procedure in handling "picture bride" cases in the future.

Accept, Excellency, the renewed assurances of my highest consideration.

(Signed) Frank L. Polk,
Acting Secretary of State.

His Excellency
Mr. Aimaro Sato,
Japanese Ambassador.

[Enclosure]

June 27, 1917.

The Honorable,
The Secretary of State.

Sir:

Your letter of June 5th (894/4054/16) inclosing copy of a note of June 4th from the Japanese Ambassador, in

which certain proposals are made regarding "evidence of marriage to be submitted by the so-called Japanese 'picture brides'," was received on June 8th, and the Department has since given further consideration to the subject matter. In suggesting a reply to the Ambassador's proposals, it seems proper, first, to review the previous correspondence with the purpose of emphasizing its main points, and, second, to state the result of the Department's entire study of the question presented for decision.

1. The occasion for the extended correspondence is the provision in Section 3 of the Immigration Law, commonly called the "illiteracy test," which became effective May 5th, ultimo, excluding from the United States aliens unable to read in some language or dialect, but exempting wives accompanying admissible husbands or sent for by husbands lawfully residing in the United States; and the question whether the so-called "picture brides" of Japan are properly to be regarded as "wives" within the meaning of said exemption and if so, how their identity and status as such are to be established. The principal features and points of the resulting discussion may be stated as follows:

(a) After considerable oral discussion had occurred between officers of the Japanese Embassy, of the Division of Far Eastern Affairs of the State Department, and of the Bureau of Immigration of the Department of Labor, the Ambassador, on April 17th last, furnished "an excerpt from the Japanese Civil Code bearing on the subject of marriage," and the Counselor of the Embassy stated in a note addressed

to an officer of the Division of Far Eastern Affairs that each picture bride "is expected to bring, besides her passport, a certified copy of her family register (Koseki-tohon) in which her marriage is duly recorded," adding:

> "In cases that prove inadequate to your authorities concerned we are ready to recommend to our Government to conform to whatever specific requirements for documentary evidence that your authorities might prescribe in the premises, provided a similar condition is imposed on the corresponding class of immigrants from other countries."

(See Department of State letter of April 18th and its inclosures).

(b) Finding in the excerpt from the Japanese law above mentioned "nothing....., that would justify, of itself, the conclusion that these marriages are provided for by existing laws and recognized as complete, legal and binding in Japan," this Department asked the specific question; "Does the law of Japan provide for and recoginze as legal the marriage of a couple one of whom, at the date of marriage, is in foreign jurisdiction and the other of whom is in Japan, in the same sense and to the same degree as though both parties to the marriage were actually in Japan at the time the marriage was contracted?" (See Department of Labor letter of April 24, 1917).

(c) When propounding the above stated query, the Department stated that in preparing regulations putting the new immigration law into effect there was no intention to

permit the exception to the "illiteracy test" in favor of wives to be availed of "by an unmarried woman who comes to a United States port and claims upon arrival that she has been sent for by a man in the United States who is desirous of marrying her at the port of her admission;" that is, it is not intended to permit an illiterate woman to qualify for admission, on the claim that she is the wife of a man in the United States, by marrying a resident man after such woman has applied for entry, or by claiming that she is the wife of a man in the United States when in point of fact the laws of the country whence she comes do not provide for and make legal and binding the kind of marriage claimed to have taken place. (Ibid.)

(d) Examination of the excerpt from the Civil Code of Japan, above mentioned, and of a translation of the entire Code, loaned this Department by the Japanese Embassy, disclosed that the provisions thereof that are invoked in connection with the marriage of the "picture brides" are the first and second paragraphs of Article 775 reading as follows:

> "A marriage takes effect upon its notification to the registrar.
>
> The notification must be made by the parties concerned and at least two witnesses of full age, either orally or by a signed document."

It was also ascertained that Articles 776 and 777 of the Civil Code read as follows:

776.

"The registrar must not accept the notification of a marriage, until he has ascertained that the marriage is not in contravention of any of the provisions of Arts. 741, 1, 744, 1, 750, 1, 754, 1, 765-773 and 775, 2 or to any other law or regulation. This, however does not apply, if, the marriage being in contravention of the provisions of Art. 741, 1 or Art. 750 1, the registrar calls the attention of the parties to it, but they persist in their notification.

777.

If Japanese in a foreign country contract a marriage between themselves, they may make the notification of their marriage to a Japanese minister or consul stationed in such country. In such case the provisions of the preceding two Articles apply correspondingly."

But there was found in the Code no provision relating specifically to the so-called "picture bride marriages."

(e) It should be stated at this point that the oral discussion of this matter that took place between officers of the Japanese Embassy, of the State Department, and of this Department have proceeded, until quite recently, upon the assumption, apparently by all concerned, that the prospective bridegroom living within the United States sends a written notification to the registrar of his intended marriage and that such written notification is made the basis of an entry in the family register and is then placed on file for possible future reference; that therefore it would not be a difficult matter to furnish in every instance a certified copy of the

notification showing the date when and place in this country from which it was sent and that it bore the signature of the bridegroom. It seems now, however, that this was a mistaken assumption; that as a matter of fact the prospective bridegroom often takes no direct part in the transaction, but the notification to the registrar is made for him by his father or by whoever happens to be the head of his "house." It seems also that the Embassy has ascertained that the notifications are merely made the basis of an entry in the family register and are then forwarded by the local registrar to the Department of Justice at Tokyo for filing in the archives of that office, the regulations of which require that such notifications shall be preserved for ten years and then destroyed.

On April 28 the Ambassador stated in a formal communication to the Secretary of State that the Japanese law provides that marriage is complete and takes effect immediately upon its being notified either in writing or orally to the registrar by both parties with the participation in the act of at least two witnesses of full age and the acceptance by the registrar of such notification; that if a written notification is employed it must be personally signed and sealed by the parties and the witnesses, but the parties are not required to appear before the registrar; that there is no provision in the law relating specifically to the case where one of the parties to a marriage lives in Japan and the other under foreign jurisdiction and there has been no decision in the courts of Japan regarding such a case; that

such being the law a Japanese man residing in the United States can marry a Japanese woman residing in Japan "by personally signing and affixing his seal to the document to be presented before the registrar in Japan and the validity of such marriage is amply attested by the issuance of a certified copy of the family register bearing the official seal of the registrar, which document the so-called 'picture bride' proceeding to this country is always provided with." (See inclosure to Department of State letter of April 30).

(g) Accepting the Statement last mentioned in conjunction with the representations made orally, this Department issued instructions to the immigration officials to accept in the cases of "picture brides" as proof of marriage a certified copy of the record of the registrar supplemented by a certified copy of the notification to the registrar sent him by the party to the marriage living in the United States. These instructions were given tentatively and subject to further consideration. (See Department of Labour letter of May 5th). It will be observed that this instruction was based upon the apparently erroneous assumption mentioned in paragraph (e) preceding.

(h) The purport of the above instruction was communicated to the Japanese Ambassador by the Department of State on May 7th. (See Department of State letter of that date).

(i) In carrying out the instructions the immigration officials, under advice from the Bureau of Immigration, are requiring that the documentary proof of marriage shall include

a certified copy of a notification to the registrar by the bridegroom himself, this practice being based upon the fact that the Japanese law invoked in the premises requires that the registrar shall be notified by the parties concerned, which must necessarily mean the bridegroom and bride.

(j) In giving the instructions above mentioned, the Department voluntarily stipulated with respect to "picture brides" then (May 5th) en route that a certified copy of the registrar's record might be accepted with the understanding that a certified copy of the notification would be supplied later. (See Department of Labor letter of May 5th). On May 18th the Ambassador requested that this provision be extended to include all who might leave Japan during the month of May; but the Department of Labor was constrained reluctantly to deny this request because it was anticipated that to grant it might raise complications regarding immigration cases originating in Europe. (See inclosure to Department of State letter of May 18th and Department of Labor letter of May 23).

(k) Simultaneously with the issuance of the instructions regarding acceptance of documentary proofs of marriage the immigration officials were directed to discontinue the practice which had obtained for many years of requiring "picture brides" to be married in accordance with American law and customs at the ports of arrival to the "picture bridegrooms" who had sent for them. (See Department of Labor letter of May 5th). This additional instruction was given because it was deemed that, if the Department re-

cognized the validity of the marriage on the basis of the documentary evidence specified to be required in proof, it could not consistently require that a marriage ceremony should be gone through with at the port of entry.

(l) In view of the facts and circumstances above recited and particularly of the additional instructions mentioned in the preceding paragraph, the Department has been surprised to learn that the Japanese Association of America (an organization which apparently quite generally represents the Japanese residing in the United States), the Japanese of this country, and the "picture brides" and "picture bridegrooms" apparently quite generally, have taken the position (notwithstanding this Department's conclusion to recognize the validity of the marriage if and when proved by documents of the kind specified,) that the marriage ceremony must be gone through with after the "picture bride" has been delivered to the "picture bridegroom" at the port of entry. To quote all of the statements on this subject which have come to the attention of the Department would unduly lengthen this letter. It is thought, however, that a few examples should be given. The "New World" of San Francisco on May 11th gave an interview had with the Chief Secretary of the Japanese Association, in which said person discussed the possible bad moral effects of allowing the "picture brides" to land without going through a ceremony of marriage and stated "I see no guarantee that results in violation of the manners and customs of society will not be introduced; for to say nothing of American manners and

customs, even in Japanese society it is the universal custom that in addition to the legal registration there must be the ceremony of the san-san-ku-do and the vows in the presence of Shinto and Buddhist Deities, a very strict and solemn service. To omit the marriage ceremony because they are coming to a distant colony, going off immediately after landing to live together without further ado, is not proper even as seen from the standpoint of Japanese custom; how much more so from that of the more severe customs of America!" Mr. K. Kanzaki in an article in the "Japanese American News" of May 8th pointed out that to permit persons who had never seen each other and who had to use photographs for purposes of recognition to land and to proceed to destination without performance of some ceremony "is to omit one of the great institutions of human relationship." He therefore urged all Japanese in this country to have a marriage ceremony performed. In the "New World" of May 11th this same person asserted that in this opinion one "would search in vain over the world for a country where the momentous relation of marriage between a man and woman is entered upon without any sort of a ceremony. In Japan, even more than in America, there is a magnificent and elaborate ceremony. This is for the preservation of order and morals in society. Not only so, it also has for its object the sacredness and purity of the new home." The "Japanese American News" of May 13th contained a report of a meeting of the Directors of the Japanese Association from which it appears that the Directors decided that not

to have a ceremony would be most improper; that the holding of a banquet after the parties reached their home would not be sufficient because the banquet and the ceremony are distinct observances, the latter being the one through which a man and woman must pass before they can properly come together as husband and wife; that the observance of the ceremony must be insisted upon not only out of respect for American customs but from regard for the entire world. From the "Japanese American News" of May 19th the following is quoted: "Photograph brides who carried documentary evidence of actual marriage were not given the education test and were all landed yesterday. On the same day they had their marriage ceremonies at their hotels or at the homes of friends, with the exception of the legal formalities, which were omitted. In all other respects no change has occurred in the practice hitherto in vogue."

(m) The proposals now submitted by the Japanese Ambassador are two and are in the alternative:

(I) That the immigration officials be directed to accept as sufficient proof of marriage in "picture bride" cases a certified copy of the family registry record, such copy to be regarded as falling within the scope of "other convincing proof of the performance of the ceremony" provided for in subdivision 7 of Rule 4 of the Immigration Regulations.

(II) That the immigration officials be instructed to accept a certificate from the local registrars "attesting to the legal validity of a marriage in favor of the 'picture bride' planning to proceed to the United States." These

requests are made because, as hereinbefore mentioned, it has been ascertained that the Embassy as well as the two Departments were proceeding upon an erroneous assumption in supposing that notifications were given in every instance by the bridegrooms and were kept in the files of the registrars' offices.

(n) Incidentally, orally and informally, the point has been raised that, inasmuch as the original notifications are preserved, even in the files of the Attorney General's office, only for ten years, proof of marriage in the manner heretofore specified will not be possible in cases of Japanese who, when coming to the United States, bring their wives with them if the marriage occurred more than ten years previous to the date of such man's application to the passport officials of Japan for his passport and to the Attorney General's office for the required certified copy.

2. The Department's conclusions with regard to this matter may be stated, in the reverse order of their importance, as follows:

(o) With respect to the last mentioned point, raised incidentally, orally and informally, it does not seem to the Department that there is any insuperable difficulty to be encountered. In the case of couples married when both parties were present in Japan, obviously the notification to the registrar could, both as a legal proposition and as a matter of physical possibility, be either oral or written; and, from what the Department has learned during its study of this matter, it is inclined to believe that in most cases of

that kind the notification would be oral. At any rate there would not exist in such a case any such unusual circumstance as exists in the case of couples whose marriage is registered while one of the parties is in Japan and the other is in this country; nor any of the potentialities for embarrassment in the administration of the law with respect to persons coming from countries other than Japan which the Department apprehends exist in the cases that are the special subject of present consideration. Therefore, the Department would not be disposed to insist upon any technical requirements, but would be satisfied to admit the man and his accompanying wife, if otherwise admissible, and to exempt the woman from the illiteracy test on the basis of a certified copy of the family registry record.

(p) It seems to the Department that the conclusion logically to be drawn from all of the evidence which has been submitted and adduced is that the legislators of Japan in adopting the Civil Code did not have in mind, in the least degree, a situation with respect to marriage of the kind which has arisen concerning the "picture brides" and their migration to the United States. The law contemplated marriage of two kinds, in so far as the *loci-contractus* was concerned, to wit: Those contracted between two Japanese both of whom at the time were residing within the jurisdiction of Japan and those contracted between two Japanese who at the time were both residing in a foreign jurisdiction. But the ends of convenience have resulted in the establishment of a custom, based in part upon the provisions of

the Code, but extending much further than the Code ever contemplated, under which the recognition of the so-called "picture marriages" has come about. This custom, not unnaturally when it is remembered that the country recognizing it is in a position actually to exercise control over the female party to the marriage only, has had a tendency toward laxity of both action and supervision, which tendency may have been somewhat retarded by the practice heretofore enforced of requiring the parties to the "picture marriage" to go through with a ceremony according to American law and custom on the arrival of the bride at a United States port. This tendency toward laxity is especially illustrated by the practice, which apparently has become quite common, of permitting the bride-groom's father or the head of his "house" to send notification to the registrar, without the bridegroom taking any active or direct part in the transaction.

(q) Apparently the ethical or religious sense and ideals, or both, of the Japanese people themselves are offended by this custom, especially when it is unattended by any social or religious ceremony of a kind ordinarily regarded as calculated to impress the parties to a marriage with the solemnity and importance of the step which they are taking in becoming husband and wife. This fact of itself produces an anomolous situation and places the Department in a rather unenviable position—one in which, as may be seen from the comments appearing in the Japanese press, a few of which have been quoted, it lays itself liable to criticism by thoughtful, sober-minded persons, whether citizens of Japan or of the United States, because, if it is to be at all consistent, it must hold that if the "picture marriage" is a valid marriage no further ceremony is to be insisted upon when the "picture brides" land at United States ports.

(r) It seems to the Department self-evident that it cannot, in administering a statute like the immigration law, base conclusions with regard to fundamental principles of law upon customs more or less firmly established in foreign countries, even though such customs may be predicated somewhat upon provisions of the law of that country. If this matter involved no more than the application of the illiteracy test to the cases of young women coming from Japan, perhaps so much importance would not need to be attached to it. But the Department has no intention, as heretofore intimated, to permit young women to come from other countries and qualify for exemption from the illiteracy test by marrying at a port of the United States a man already located here. If such a domiciled alien wishes to bring to the United States as his wife a woman who is illiterate he wil be obliged, under the practice which it is the purpose of the Department to follow, to return to his native land, marry the woman in accordance with the law there obtaining, and take his chances on returning to a port of this country of being found eligible to enter himself and of his wife being found also admissible. Nor is it the Department's intention to recognize in this connection customs that prevail in countries other than Japan. And there are several countries in which

unusual or unique practices and customs regarding marriage and the relation of the sexes exist; and there is no reason known to the Department why, if it should recognize a custom obtaining in this regard in any one country, other countries should not adopt similar or even dissimilar customs with a view to having them recognized and thereby securing exemption from provisions of the Immigration Law for their subjects or citizens. It will be observed, therefore, that the question is of general rather than of particular interest and consequence in the administration of the Immigration Law.

(s) The foregoing consideration inevitably leads the Department to the final conclusion that the very least that it can with propriety and safety require in the cases of the "picture brides" is proof that the bridegroom, not someone else in his behalf either really or ostensibly, has complied with the law, not the custom, of the country of which he is a subject in contracting the marriage on the basis of which he proposes to claim exemption for a woman who would, but for her marriage, be subject to exclusion under the illiteracy test. It is to that bridegroom, who is living within this country and while here is subject to its municipal law, not to his father or the head of his "house", who is living in Japan and in no sense within the control or supervision of the local authorities of the United States, that the communities of this country are entitled to look for the maintenance, protection and care of the woman brought into their midst; and as a particular practical proposition, as well as because of the legal and general practical considerations

that have already been mentioned, it is important to know in the case of a Japanese alien, just as it is in the cases of aliens of all other nationalities, that the woman is being brought to this country because of the personal desire of the man to have her as his spouse and helpmate in life.

(t) The fact that the original notifications are destroyed in the office of the Attorney General at Tokyo after the lapse of ten years does not affect the "picture bride" cases. While it is realized that some inconvenience may be occasioned, especially at first, by the necessity of applying to the Attorney General's office in Tokyo for certified copies of notifications, it is believed that this difficulty could be overcome by a slight change in the practice, that is, by requiring the notifications to be retained in the office of the registrar for a short period after their submission. The remaining difficulty arising from the fact that in some instances the notification is filed by the bridegroom's father or the head of his "house" it seems to the Department is the only one of particular gravity. It could soon be overcome, however, by inaugurating a change in the practice and having the notification originate with the bridegroom. Such a practice could be based directly upon a combination of the applicable provisions of Articles 775 and 777 of the Civil Code, and could include requiring (as the physical situation itself demands any way) that the notification in such cases shall be in writing and signed by the prospective bridegroom himself. The suggested practice would take care of all future cases. In the remaining cases (i.e., these in which the marriage has already been recorded

on the basis of a notification not originating with the bridegroom) it seems to the Department that it would be possible and in no sense improper to require that the bridegroom shall return to Japan and have a regular ceremony performed.

(u) However, the careful attention which the Department has given this entire subject leads it to suggest, in conclusion, the desirability, from every conceivable point of view, of bringing about a situation with regard to these "picture brides" which will more nearly conform to that existing with regard to alien women generally in the effect upon their cases of the Immigration Law. The simplest and most effective remedy for the embarrassments and difficulties that must constantly arise where a situation of a unique nature must be dealt with, under a law intended to apply to all aliens alike, is to change the unique situation into a common one. Therefore, why should not young men of Japanese nationality residing in the United States, when they desire to have women join them here as their wives, and these women are ineligible to enter in their individual capacity, return to their native land and conform to all of the requirements, legal, ethical, and moral, that are usually observed in their country by men and women who enter into a state of matrimony with due regard to the public opinion of the community in which they live?

Respectfully,

Secretary.

No. 3.

Imperial Japanese Embassy,

Washington.

July 25, 1917.

Sir:

I have the honor to acknowledge the receipt of your note of July 7, inclosing copy of a letter dated June 27 from the Honorable the Secretary of Labor relative to the admission of so-called Japanese "picture brides" to the United States.

The matter under discussion, having been confined from the outset, to the question of what evidence should be presented by Japanese wives unaccompanied by their husbands when applying for admission to the United States, I deem it inexpedient and that it serves no immediate good purpose to enter into a detailed treatment of the merits or demerits of the Japanese institution of marriage. Accordingly, I beg leave to repeat substantially the suggestion made in my previous notes and to request you to be good enough to exert your good offices to the end that the question which is essentially one of form and not of principle, be brought to a speedy and satisfactory solution. It is needless to state that my Government has not the least intention to unduly influence the administrative procedures of your Government in favor of Japanese immigrants, but the peculiar character

of the Japanese marriage in which the ceremony has no legal bearing makes the Japanese Government feel that the request for a special consideration of the matter will not be deemed uncalled for.

Judging from the nature of the notification and the value of the *Koseki-tôhon* (certified copy of the record of a particular family) or *Koseki-shôhon* (certified copy of the record of a particular individual) as evidence (vide post §§ 2, 3), I wonder whether it would not be most logical and feasible to require the "picture brides" to take with them such *tôhon* or *shôhon* in order to prove that the necessary procedure of marriage between them and the men in the United States has transpired, and to treat them as wives in the execution of the Immigration Law. The ceremony of the marriage is not legalized in the Japanese law (vide post § 1) and therefore literally speaking the *tôhon* or *shôhon* carried by the "picture brides" with them do not come within the scope of the "convincing proof of the performance of the marriage *ceremony*" as provided for in the Immigration Rules of May 1, 1917. However, understanding that what the Rules require is the proof of marriage which has legally transpired, I venture to conclude that the *tôhon* or *shôhon* may be taken as such in accordance with the spirit of the Rules.

The arrangement that the "picture brides" carry with them certified copies of the notification of the marriage together with the *tôhon* or *shôhon* is not probably unfeasible (vide the Department of Labor note, paragraph "t"), and

I shall be glad again to recommend to the Japanese Government the establishment of the practice, if it is the opinion of your Government that such be desirable. However, I rather wonder whether it is exactly logical for us to take such a course. The trouble occurs with regard to a woman married more than ten years ago (vide the Department of Labor note paragraphs "n" and "o"). When she is coming with her husband the question is simpler and could be handled in the manner indicated by the Department of Labor. It would, however, be impossible for such a woman to be admitted to this country when she is coming by herself to a United States port to join her husband and when she is illiterate withal. It may be ruled that she be admitted on the strength of the *tôhon* or *shôhon* alone, but this would be logically inconsistent as against the ruling with regard to the "picture brides", since in the eye of the Japanese law there could be drawn no distinction between the originarily married wives and the so-called "picture brides."

In face of these circumstances, it is suggested that if, for evidence's sake, the United States Government opines that some other document than the *tôhon* or *shôhon* is necessary, the institution proposed by the Japanese Government of issuing at the hands of the local Family Registrar a new form of certificate proving the legal validity of a marriage be favorably considered by the United States Government, (vide the Embassy's note dated June 4, 1917). This certificate cannot be one of the marriage itself since it is not made at the time of its constitution. However, it could be

made in such a form as would be more complete than the *tôhon* or *shôhon* as a legal evidence, issuing only in favor of the married couple and one copy at a time.

Having made a careful perusal of the note of the Department of Labor inclosed in your note under acknowledgment, I have noticed a few apparently misrepresented phases of the question which would, I am afraid, have an important bearing upon the final decision as to the course of procedure in handling the "picture bride" cases at American ports. Accordingly, I have deemed it appropriate to take this opportunity to record for the information of your Government serveral points of fact a major part of which have, I believe, already been explained by my staff in the course of oral discussions.

1. Referring to paragraph "c" of the note of the Department of Labor, I desire to make it unmistakably clear that a "picture bride" is *not*, in the eye of the law, "an unmarried woman who comes to a United States port and claims upon arrival that she has been sent for by a man in the United States who is desirous of marrying her at the port of her admission." A marriage contracted between a woman residing in Japan and a man residing in the United States is no less legal and binding than a marriage contracted between parties residing within the same jurisdiction.

It has already been pointed out that according to the Japanese law, "a marriage takes effect upon its notification to the registrar" (Civil Code, Art. 775). So long as the parties to a proposed marriage contract satisfy the requirements that they are of marriageable ages (C.C. Art. 765), that they are not going to commit bigamy, (C.C. Art. 766), that the time during which a woman is restricted against remarriage has expired (C.C. Art. 767), that they have not been parties to an adultery (C.C. Art. 768), that their marriage is not incestuous (C.C. Arts. 769, 770, 771); and that the consent of the parents or the family council has been given when such is necessary (C.C. Arts. 772, 773), the only thing the prospective husband and wife have to do to complete the marriage, so far as the law is concerned, is to notify either by parol or in the written form the Family Registrar of the district where the would-be bridegroom's permanent domicile (*hon seki*) is situate. Upon the acceptance of the notification and the entry of the fact in the Family Registry Record by the Registrar, the legal procedure of the marriage contract is completely gone through and the marriage becomes effective from that date.

It is to be noted in this connection that the marriage ceremony is not at all considered by the Japanese Civil Code. Marriage has in Japan as in any other country been regarded as one of the most important of human affairs and very naturally certain ceremonies for its solemnization have been evolved. The most general form of the nuptial ceremony consists in the formal drinking of saké alternately by the marrying couple from the same cups three-times-three-nine-times (*san-san-ku-do*) in the presence of the go-betweens (nakôdo) and a boy and girl of ten or twelve who act as attendants, and more recently also of the wedding guests.

Formerly in Japan, as was the case in England and America in ancient days, acknowledgment of the parties, proof of cohabitation as man and wife, or general reputation resulting from the conduct of the parties, was all that was needed for a marriage to be recognized and protected by the law. However, since the enforcement of the Civil Code on July 16, 1898, the legal recognition and protection of a marriage has come to hinge solely upon the notification to, and acceptance by, the Family Registrar of the marriage contract. No provisions whatever as to the marriage ceremony for the solemnization and authentication of marriage corresponding to those prescribed in the statutes of the Western nations are to be found in the Japanese law. This mode of legislation has come to be adopted evidently for the reason that the formalities of the ceremony as established and sanctioned by the Japanese custom have nothing to do with religious rites or priests, Shinto shrine or Buddhist temples. It is, however, required that the couple who act as the go-betweens are generally elected from among the friends of the prospective bride or the bridegroom. It is quite likely that the legislators did not see the practicability of placing the duties and responsibilities of a justice, judge, city recorder, priest or minister of the gospel upon the shoulders of such go-betweens who by no means make it a part of their calling to participate in nuptial ceremonies. It seems to have been seen fit to relegate such ceremonies to the realm of social and actual facts as much as the nuptial dinner or the honeymoon trip. Whether it takes place or not, the marriage is complete

in the eye of the Japanese law when the notification of a marriage is made and accepted and from that date on all necessary and incidental effects or marriage will come into operation; such as, the entry into the "house" into which one is married (C.C. Art. 788); the inception of the relations of affinity; the obligation of the husband and wife to live with each other (C.C. Art. 789); the mutual duty of support (C.C. Art. 790); the husband's obligation to act as the guardian to the wife when the wife is a minor (C.C. Art. 791); the right of annulment of a contract between the couple (C.C. Art. 792). Further, the wife will need to have the permission of the husband to receive or use principal (as distinguished from interest); to contract loans, or to stand surety; to do acts having for their object the acquisition or loss of rights relative to immovables or to important movables; to institute suits at law, to make gifts, amicable settlements or arbitration agreements, to accept or renounce a succession, to accept or refuse a gift or legacy, or to make a contract putting her under any corporal restraint. (C.C. Art. 12, 14). A crime of adultery (Criminal Code Art. 183) may also be constituted in regard to a woman in this legal status.

All such rights and duties as pertain to the civil status of a wife is invested and imposed upon the so-called "picture brides" the moment the notification of marriage is accepted, simply because there is legally speaking no difference whatever between the "picture brides" and other brides who

are married to bridegrooms living within the same jurisdiction.

It is noted that the Department of Labor has concluded that the Japanese legislators did not have in mind, in the least degree, a marriage contracted between parties living under separate jurisdictions but that "the ends of convenience have resulted in the establishment of a *custom*, based *in part* upon the provision of the Code but extending much further than the Code ever contemplated, under which the recognition of the so-called 'picture marriages' have come about" (paragraph "p" of the note of the Department of Labor). It seems that the Labor Department has based this conclusion on the assumption that the marriage ceremony is in some manner essential for a marriage to be recognized and protected by the Japanese law. That this impression is entirely erroneous has, I feel sure, been amply elucidated by the above explanation of the constitution of marriage in Japan. The views expressed by certain Japanese that the nuptial ceremonies whether it be the "*san-san-ku-do*", or Christian rites, by the "picture brides" and their bridegrooms are not to be dispensed with (ibid paragraph "l"), are no doubt warranted and will be sympathized in by every Japanese of sense. However, these ceremonies belong, as stated before, to the realm of social and actual facts as much as the honeymoon trips, the sending of the gifts or the announcements to friends of the matrimony, and, in the Japanese law, they are not attributed with any legal meaning whatever. Moreover, when the Japanese system of marriage is clearly borne in

mind, it will be easy to understand that the *loci contractus* play a decidedly less important part in marriage than in Western countries. There has been generally and especially in the higher stratum of society, at least until very recently, no association of young men and women, much less the paying of the addresses, prior to marriages. Marriage negotiations are more often initiated by the parents or intimate relatives of the marriageable men and women. After a most careful and mutual investigation about the character, ability and other qualifications of the parties concerned, the matter will finally be decided by the young people themselves. And it is by no means seldom that the prospective bride and bridegroom do not actually meet each other before the marriage negotiations have practically attained a definite stage. Naturally they are in most cases, strangers in a sense when the marriage contract is formed. I shall refrain from dwelling at length upon the merit or demerit of this system of marriage in the present note. However, it would not be amiss to add that Japanese youths profit by the mature judgment of their parents or other relatives and are free from the dangers of rushing uncounselled into unhappy marital bondage, and that the Japanese do perhaps not marry so much on impulse as after a most serious consideration for their future life.

In view of such circumstances, it will be noticed that the *loci contractus* are not looked upon as an important factor in a marriage contract in the Japanese law, and that Article 777 of the Civil Code only prescribes a convenient method of making the notification of a marriage contracted

between a man and a woman in a foreign country. This spirit of the provision may easily be discerned when it is noticed that it gives the contractors the choice of making the notification either to a Japanese diplomatic or consular officer stationed in that country or to the Family Registrar of the district in Japan where the prospective husband (in special cases, the wife) has his permanent legal domicile.

When the legal relations between the notification and the marriage under the Japanese law are made clear, there is needed no further arguments to satisfy ourselves that the "picture brides" are not the offspring of a custom arising out of convenience, and predicated partially upon the law but extending much further than the law ever contemplated, that they are as normally married as any other brides, married "in the sense and to the same degree" in any and every respect. (vide paragraph "b", Department of Labor note).

The only difference between the "picture brides" and the other brides is *de facto*, not *de jure*. And when the usual, more or less unfamiliar, relations between a bride and bridegroom in Japan are remembered, it will be seen that the *de facto* difference reduces itself to the difference in the length of intervals between the notification of the marriage and the ceremony of the *san-san-ku-do*.

Such legal features of the marriage in Japan make it altogether unnecessary that the Department of Labor should entertain any fears as to the effect of its attitude toward the Japanese "picture brides" upon the handling of immi-

grants from certain European countries. (The Department of Labor note, paragraph "r"). Neither is there any cause for the apprehension that the "picture bride" is not being "brought to this country because of the personal desire of the man to have her as his spouse and helpmate in life." (The Department of Labor note, paragraph "s"). The fact of which you are no doubt aware that these "picture marriages" have been showing quite satisfactory results socially and morally may be here adduced to affirm the above statement.

2. Another point which needs explanation is about the parties who are to make the notification of a marriage to the Family Registrar (or to a diplomatic or consular representative). The Department of Labor seems to be under the impression that the notification is sometimes made by some one other than the parties immediately concerned,—by the father of the bridegroom or by whoever happens to be the head of the "house" (The Department of Labor note, paragraph "e"). This is erroneous, and it seems that this error has been occasioned from the peculiar Japanese custom which is now legalized, of affixing a personal seal under one's name, written not necessarily by oneself but by anyone, instead of writing one's own signature. This Embassy's explanation was not accurate when it was explained that the notification must be *personally signed* and sealed by the parties and the witness (The Embassy's note, June 4, 1917). The Japanese phrase, "*sho-mei natsu-in*", which is used in the Family Registry Law (Art. 44) should be translated into "writing the name and affixing the seal." Such

practice of employing a personal seal which is to be registered at the Family Registrar's office in lieu of a signature in this and other countries is not restricted to the notification of a marriage or other matters of personal status, but it universally obtains, applying equally to any legal and business transaction. The affixing of the registered personal seal under one's name written by anyone or in print is necessary and sufficient for such an act as drawing money from a bank. This system has the advantage of saving a great deal of trouble as when one has to write many signatures, when one will have to travel a long distance to set down his signature, or when a document will have to sent a long distance for a signature, but it embarrasses one when he does not carry the seal with him, when he loses it, or when by carelessness he lets someone abuse it.

This time-honored custom in Japan of using seal-impression instead of signatures, has occasioned the promulgation of a law providing that aliens may use their signatures instead of the name-writing and seal-impressing (*sho-mei natsu-in*) (Law No. 50, March 10, 1900). The use of seals which thus entirely take the place of signatures, is also protected in the Criminal Code; which provides as follows:

> "Whoever shall have, with intent to use the same, fraudulently counterfeited the seal or signature of another person, shall be punished with penal servitude for a period not exceeding three years.
>
> The same penalty shall be imposed upon whoever shall have made improper use of the seal or signature of another person, or used a counterfeit of the seal or signature of another persons." (Art. 167).

Be its merit what it may, this system enables a man resident in this country to perform a legal act in Japan by, for instance, sending his registered personal seal to his parents or any other person whom he trusts. Such cases might not be rare regarding "picture marriage", but it is to be noted that it is the man residing in this country, the prospective husband, that is the actual agent of the legal transaction and not the father or any other person who affixes for him the seal to the marriage notification.

3. As to the nature and legal effects of the notification, they have been fully explained in the previous paragraphs of this note. It must, however, also be noted that technically the only permanent record of the acceptance of the notification is the entry in the Family Registry Record, the written notification which is the commonest form (the impression of the Department of Labor expressed in paragraph "o" that the oral notification is commoner is erroneous), being monthly forwarded by the Registrar to the local District Court where it is to be preserved for ten years and then destroyed, (Family Registry Law, Art. 28, Regulations relative to the Preservation of Documents in regard to the Personal Status. Family Registry and Temporary Residence, Art. 4). Therefore, the entry in the Family Registry Record is a sufficient evidence of matters pertaining to personal status such as marriage so long as the husband and wife do not con-

tradict it and the matrimonial repute is established among his friends and acquaintances. That certified copies of the entry are issued in two forms, to wit, first, copy of the entry for a family or 'house' (*Koseki-tôhon*) and secondly, copy of the entry for an individual (*Koseki-shôhon*), has been explained in my note of June 4, 1917, and alluded to in the beginning of this note.

Accept, Sir, the renewed assurances of my highest consideration.

(Signed) Aimaro Sato.

Honorable Robert Lansing,
Secretary of State.

No. 4.

Department of State,
Washington.

August 21, 1917.

Excellency:

I have the honor to acknowledge the receipt of your note of July 25, 1917, relative to the admission into the United States of so-called "picture brides" coming from Japan, and to state that a copy of your note was promptly sent to the Secretary of Labor for his information and for such action as he might deem advisable.

The Department of State has today received a reply, dated August 20, 1917, from the Secretary of Labor, a copy of which is enclosed herewith. I beg to express to Your Excellency the satisfaction with which the Department of State views the prospect of a happy solution of the question which has been at issue.

Accept, Excellency, the renewed assurances of my highest consideration.

(Signed) Robert Lansing.

His Excellency
Mr. Aimaro Sato,
Japanese Ambassador.

[Enclosure]

August 20, 1917.

The Honorable,
The Secretary of State.
Sir:

I have the honor to acknowledge the receipt of your letter of the 30th ultimo (894.4054/19), with which you transmit copy of a note from the Japanese Embassy replying to the observations made in my letter of June 27th addressed to you, regarding the so-called "picture brides" coming from Japan.

The Department has again carefully considered this

entire matter, in the light of the statements now made by the Japanese Ambassador and their very important bearing upon previous discussions. It is glad that so detailed a discussion of the subject has occurred; for it believes that such discussion has resulted in the clarification upon the records of your Department and this Department of every phase of the subject on which doubt or misunderstanding has heretofore existed, and both Departments are now in a position where they can intelligently, and without felling that there are potentialities for embarrassment involved, meet the views of the Japanese Government fully and frankly. This Department's letter of June 27th purposely set forth in the minutest detail every element of the proposition under discussion which in its judgment required further explanation or comment; and the response from the Japanese Ambassador is so full and explicit that the Department feels well repaid for the pains which it took to lay the various points minutely before your Department for presentation to the Embassy.

To a very considerable extent this Department's misapprehension of the situation with respect to the *modus operandi* of the marriage taking place in the cases of these "picture brides" was occasioned by the impression gained from the Embassy's note of June 4, 1917, and the discussions had with members of the staff of the Embassy that the notification required by Japanese law to be filed with the Registrar of family records had to be personally signed and sealed by the parties to the marriage. Finding now from the note of the Ambassador that all that is required

by the Japanese law in this regard is that the name of the parties shall be written on the notification and attested by the affixing thereto of his personal seal, and that the writing of the name and affixing of the seal may under the laws of Japan be done for the parties by any authorized person to whom the seal is delivered or in whose possession it is left, and that this is a general law which applies to the signing and sealing of documents of all kinds in Japan, of course the Department finds itself in a position where its mind is altogether disabused of the idea that the marriages are conducted in accordance with the custom, based only indirectly and partly upon the law, and not in accordance with the law itself.

A mutual understanding of the law and of the fact that the practice conforms thereto having finally been reached, it remains only to determine which of the several possible methods of furnishing proof had best be adopted. Taking every phase of the matter into consideration, the Department is inclined to think that the most logical and consistent method, and therefore the one least apt to lead to any difficulty or embarrassment in individual cases, would be this: Hereafter require all women applying for admission as the wives of Japanese men to furnish to the immigration officers at ports of entry of this country, as evidence of their marriage, a certified copy of so much of the record of the family (called in Japanese the "Koseki-tôhon") of each of the parties to the marriage as contains the items recorded by reason of the occurrence of the marriage. These seem

to be documents which it is customary to issue in Japan, so that no new system would have to be inaugurated; moreover, they seem to be the most complete documentary evidence that can be furnished under all the circumstances, as they contain a record, properly authenticated, of the fact that the Registrar has received notification from or on behalf of the parties concerned and that the record of the marriage, and therefore the marriage itself, has been completed in accordance with Japanese law.

This Department will immediately issue instructions to the immigration officers to accept such documents as satisfactory evidence in this class of cases. It will also give directions to the effect that all pending cases, in which temporary arrangements have been made looking to the final adjustment of this point, shall be finally landed upon the receipt, through the local Japanese consulates or otherwise, of similar documents affecting the persons involved.

In conclusion, may I request that you extend to the Japanese Ambassador an expression of this Department's pleasure that this subject, which at one time seemed to it to involve possibilities of embarrassment in the enforcement of the immigration law generally, has been finally cleared of all misunderstanding and adjusted in a manner satisfactory to all concerned? It is especially gratifying that the full and free discussion thereof has produced a situation under which the nomenclature that has grown up—the use of the expressions "picture brides," "photograph brides," "proxy marriages," etc.,—may now be abandoned, since the explanations and assurances of the Japanese Government show that the marriages in question are authorized and recognized by the former Government, which fact has led to their full recognition by the United States Government, so that the marriages involved are now to be considered by all concerned as in no sense distinguishable from marriages generally, and the women can be, and ought to be, referred to simply as wives.

Very truly yours,

(Signed) W. B. Wilson.

Secretary.

No. 5.

Imperial Japanese Embassy,
Washington.

August 25, 1917.

Sir:

The note you did me the honor to address me under date of August 21, 1917, inclosing copy of a reply from the Honorable the Secretary of Labor, in regard to the admission of Japanese wives proceeding to this country unaccompanied by their husbands, was duly received and I did not fail forthwith to apprise my Government of its contents.

I am now instructed by Viscount Motono to express to

you and, through your kind offices, to the authorities concerned the Japanese Government's entire gratification that the pending question has been so satisfactorily composed through a full and frank exchange of views.

Accept, Sir, the renewed assurances of my hightest consideration.

(Signed) Aimaro Sato.

Honorable Robert Lansing,
Secretary of State.

附屬書第八十號　銀行員入國拒絶ニ關スル在米大使國務省間往復文

No. 1.

MEMORANDUM.

Yogo Negishi, a Japanese subject in the employ of the Yokohama Specie Bank, who arrived at Honolulu per S.S "Shinyo Maru", September 26, 1917, by the order of the head office to serve at its branch office at that port, was denied admission by the local immigration authorities there for the reason that he was a "contract laborer" as defined in the Act of February 5, 1917.

As regards the admission to the United States of the employees of the said bank the Japanese Embassy was informed by the State Department in its note No. 66, March 26, 1902, accompanied with the note No. 27,230 of the Office of the Commissioner-General of Immigration, Treasury Department, dated the 19th of the same month, (copy thereof attached hereto) that the Treasury Department had instructed local immigration officers to prevent the recurrence of similar cases. In the said attached note of the Treasury Department, it is stated that "the Treasury Department sustained the appeal and permitted the Japanese persons who had been detained to land, holding that the contract

was not one of such a nature as was contemplated by the provisions of the said law" (the Alien Contract Labor Law) and that "if Japanese aliens duly proven to be employees of the said bank seeking admission to the United States in pursuance of its business, arrived at the port, they should be landed provided they are otherwise eligible to admission under the general provisions of the immigration laws."

Since then, no amendments of the immigration laws concerning the point were made, so far as the Japanese Embassy understands, nor has the Embassy been notified of any alteration in the opinion of the Department concerned on the same point, and the employees of the said bank have in the meantime been permitted to land at Honolulu, as well as at other American ports, without any trouble.

The Japanese Embassy therefore earnestly hopes the present case will be settled in a satisfactory manner as heretofore through the good offices of the Department of State.

November 14, 1917.

[Enclosure]

Department of State,
Washington.

March 26, 1902.

Sir:

I have the honor to acknowledge the receipt of your

note No. 14, of the 12th instant, in further relation to the case of Mr. W. Takeuchi, an employee of the Yokohama Specie Bank, who was denied permission to land at Honolulu by the Immigration Inspector, on the ground that he was a contract laborer.

You state that the Japanese Government is of opinion, for the reasons given in your note, that in order to prevent absolutely the recurrence of like action on the part of subordinate immigration officials, special instructions should be given to such officials; and you express the hope that the Secretary of the Treasury will see fit to reconsider his decision regarding the issuance of such instructions.

In reply I have the honor to inform you that in view of your request the Treasury Department has addressed a letter to the immigration officers at the Pacific ports, containing instructions which, it is confidently believed, will prevent the recurrence of cases similar to those of Mr. Takeuchi and Mr. Hiramoto. A copy of that letter is herewith enclosed for your information.

Accept, Sir, the renewed assurances of my highest consideration.

(Signed) John Hay.

Mr. Kogoro Takahira,
etc., etc., etc.

Treasury Department

Office of Commissioner-General of Immigration,

Washington, D.C.

March 19th, 1902.

Sir:

The Department has twice had under consideration, on appeal from the excluding decisions of immigration officers at the port of arrival, cases of Japanese persons who were employees of the Yokohama Specie Bank, a Government institution of Japan. Those persons were denied admission upon the ground that they were seeking admission in violation of the provisions of the alien contract labor law. In both instances the Department sustained the appeal and permitted the Japanese persons who had been detained to land, holding that the contract was not one of such a nature as was contemplated by the provisions of the said law.

To avoid repetitions of the embarrassing and unnecessary delay in future instances of the same kind, you are advised that if Japanese aliens, duly proven to be employees of the said bank, seeking admission to the United States in pursuance of its business, arrive at your port, they should be landed, provided they are otherwise eligible to admission under the general provisions of the immigration laws.

Respectfully,

(Signed) F. H. Larned,

Acting Commissioner-General.

Approved:

(Signed) H. A. Taylor,

Assistant Secretary.

No. 2.

Referring to the Memorandum of November 14, 1917, of the Japanese Embassy, the Department of State encloses herewith, for the information of the Embassy, a copy of a memorandum received from the Department of Labor in regard to the case of Mr. Yogo Negishi, a Japanese subject, who was denied admission by the local immigration authorities at Honolulu, for the reason that he was a "contract laborer" as defined in the Act of February 5, 1917.

The Department is advised by the Acting Secretary of Labor that the recommendation contained in the memorandum has been approved and that the Inspector in Charge of the Immigration Service at Honolulu has been directed to proceed with the deportation of the alien.

Department of State,

Washington, December 14, 1917.

(Signed) Alvey A. Adee.

[Enclosure]

December 7, 1917.

In re YOGO NEGISHI, aged 22, native and subject of Japan.

Memorandum for THE ACTING SECRETARY:

The facts in this case are perfectly simple and there seems to be no dispute concerning them. Negishi is an ordinary bank clerk who has been employed for a short time by the Yokohama Specie Bank in Japan and who is now being transferred to the Honolulu branch of that bank under contract to take charge of the foreign exchange department at a salary of about $1100 per annum. Negishi is a contract laborer within the meaning of the law and must be excluded unless his case is covered by some one or more of the exceptions to the contract labor clause. He makes no claim to being a member of a recognized learned profession, indeed could not very well do so. The bank did not apply for or receive in advance of the alien's migration permission to import him on the ground that skilled services of the kind to be furnished by him cannot be supplied by any one available in the United States.

The claim made in his behalf, by his attorney and by the Japanese Embassy in this city is substantially this: That the Yokohama Specie Bank is a quasi governmental institution and that it has been the practice heretofore not to regard employees brought to this country by such bank as within the

scope of the contract labor provisions. A decision rendered by the Secretary of the Treasury in 1902 is cited in support of this proposition. Not being able to recall from memory that the Bureau of Immigration or the Department of Labor had in recent years authorized in any case the admission of aliens coming to the United States under contract upon the ground that the concern with which they were to be employed had a quasi official standing with foreign governments, the Bureau has caused its records to be carefully searched but has been unable to locate any case in which such a decision has been rendered.

In February, 1905, however, a decision was rendered by the Secretary of Commerce and Labor in the case of Kamishi Miyamoto (which decision was published as Department of Commerce and Labor decision No. 88 and widely distributed, but which is now out of print, the original copy being attached to Bureau file 47936, herewith) in which the alien, an employee of the Yokohama Specie Bank, was admitted although under contract; but it was specifically pointed out in that decision that the conclusion reached was in no sense based upon the proposition that the Bank was a government institution, and that the man was being landed because it was conceived that he belonged to the professional rather than to the laboring class, reliance being had largely upon certain portions of the decision of the Supreme Court in the Holy Trinity Church case.

It has also been found that in April, 1908, the Solicitor of the said Department, acting as Secretary of Commerce

and Labor, dismissed the appeal and ordered the deportation of one Yoshida Hatano who had been rejected by the board of special inquiry at Seattle as a contract laborer and who was coming to the United States to accept prearranged employment as clerk and bookkeeper in the Japanese-American Bank, it being pointed out that said alien could not be "regarded as a professional man, the facts in his case being quite different from those in the case of Miyamoto (Department Decision No. 88) and there is no evidence whatever to show that, even if he is entitled to be regarded as a skilled laborer, labor of like kind unemployed is not available in this country." (Bureau of Immigration file No. 51938/14).

It will be seen, from the foregoing, that it was not the practice of the Department of Commerce and Labor, during the time that the Bureau of Immigration was part thereof (1903-1913) to admit as exempt from the contract labor provisions an employee of the Yokohama Specie Bank, unless it was shown in the individual case that the man occupied so high a position and was possessed of such knowledge and skill as to entitled him to be classed, under the practice then prevailing in this regard, as a member of a profession. At least such was the situation until June, 1909, when Department of Commerce and Labor decision No. 118 was published and distributed, promulgating an opinion rendered by the Attorney General in the McNair case (later promulgated as an opinion of the Attorney General, 27 Op. 383), in which it was held that the contract labor law related to manual laborers as distinguished from mental laborers, that opinion

being based largely, also, upon the decision of the Supreme Court in the Holy Trinity Church case.

But in January, 1914, the Supreme Court rendered a decision in the case of Lapina v. Williams (232 U.S. 78), in which it pointed out that the very section of the immigration law in which are found the contract labor provisions contains its own limitations and exceptions and that no other exceptions by construction are permissible, and in which it referred to the Holy Trinity Church case in such a manner as to indicate that said case was no longer regarded as authoritative upon the point under discussion. Thereupon, the Secretary of Labor issued instructions that the said decision of the Supreme Court would be regarded as superseding the opinion in the McNair case; thereby restoring the practice which had been followed in the enforcement of the contract labor provisions prior to the promulgation of the opinion mentioned.

All that is said above relates to the Immigration Acts of 1903 and 1907, respectively. When the Bill which eventually became the Immigration Act of 1917 was in course of preparation and passage the question as to whether the contract labor provision which it was proposed to reenact in substantially the same form in which they had stood in the Acts of 1903 and 1907, should be regarded as applying simply as to manual laborers or as applying to all classes of laborers except those specifically exempt, was discussed in considerable detail; and the Committee Reports and Debates upon the Bill leave no room for doubt that the construction which had been

placed upon those provisions by this Department to the effect that they related to all classes of employees except those specifically exempt from their terms was the construction approved by the legislative branch itself. In support of the above it would be mere supererogation to do more than quote a statement made on the floor of the Senate by Senator Robinson, who was in charge of the Bill, which reads as follows:

> "It will be recalled that the words 'mental or manual' were inserted in the definition of contract laborer in response to a recommendation from the Commissioner-General of Immigration and the Secretary of Labor, their object evidently being to make the language of the law perfectly clear and have the new statute fully accomplish the purpose of the existing one. It is understood that the department's difficulty in this regard arose from the handing down over four years ago by the Attorney General of an opinion restricting the operation of the statute to laborers engaged in occupations in which manual elements predominate over mental. The conference committee's recommendation is not due to concurrence in the construction of the law which limits its operation to manual laborers, but is due solely to the belief that the definition of the term 'contract laborer' as it stands in the existing law and is repeated in the pending measure is clearly to the contrary effect without the insertion of the words 'mental or manual'."

It not being shown that the alien YOGO NEGISHI is a

member of a recognized learned profession nor that a person qualified to perform labor of the kind it is proposed he shall perform cannot be found in this country, and as it is conceded on the record that his being an employee of the Yokohama Specie Bank does not make him in any sense an official of the Japanese Government, the Bureau recommends that the decision of the board of special inquiry be affirmed and the alien deported.

For the Commissioner-General:

(Signed) A. Warner Parker,

Lar Officer.

No. 3.

Department of State,
Washington.

January 4, 1918.

My dear Mr. Ambassador:

Referring to Mr. Fujii's visit to the Department on December 17, when he requested that the order of deportation of the Japanese subject Mr. Yogo Negishi, who was denied admission by the immigration authorities at Honolulu on the ground that he was a contract laborer, be suspended until further consideration could be given the case in view of the fact that it was not positively stated in the memorandum of the law officer of the Department of Labor, en-

closed to you in my communication of December 14, that the precedent established in 1902 was no longer applicable, I regret to inform you that after reconsideration of the case it was not found possible, to rescind the order of deportation, since the precedent established by the immigration service on March 26, 1902, when it was a part of the Treasury Department, was long since overruled, and the contrary practice has been maintained, without regard to the nationality of the aliens involved, for many years.

I am confident that it is not necessary to assure you that the deportation of Mr. Negishi had any regard whatever to the fact that he happened to be of Japanese nationality, and that his treatment was not different from that which would be accorded to persons from any other country in similar circumstances.

I am, my dear Mr. Sato,

Very sincerely yours,

(Signed) Robert Lansing.

His Excellency
Mr. Aimaro Sato,
Japanese Ambassador.

附屬書第八十一號　銀行員等ノ移民法上ノ地位ヲ說明セル在米大使宛國務長官公文

Department of State,
Washington.

January 30, 1918.

Sir:

Referring to your call at the Department on January 26, 1918, and to previous correspondence between the Embassy and this Department on the subject of the admissibility to Hawaii of Yogo Negishi under the United States immigration laws, the Department sends you herewith copy of a letter dated January 15, 1918, with its enclosure, from the Assistant Secretary of Labor on this subject. If the case of Yogo Negishi should be found to fall under either of the exceptions noted by the Department of Labor, his admission, in the opinion of the Assistant Secretary of Labor, as you will see, could be legally allowed.

Accept, Sir, the renewed assurances of my highest consideration.

(Signed) Robert Lansing.

Mr. Tokichi Tanaka,
Japanese Chargé d'Affaires.

[Enclosure]

January 15, 1918.

The Honorable
The Secretary of State.

Sir:

Referring to this Department's letter to you of December 22, answering yours of the 18th idem (150.9465/6), to the conference which the Commissioner-General of Immigration had yesterday with Assistant Secretary of State Long, and to the memorandum handed the Commissioner General at that time by Mr. Long regarding a discussion which the latter had on the morning of January 14 with the Chargé d' Affaires of the Japanese Embassy regarding the case of Yogo Negishi, I beg to state that further consideration has been given the general proposition advanced by the Chargé on the basis of the decision rendered by this Department in the Negishi case, with the result that it now seems appropriate to call your attention to the following phases of the contract labor provisions of the Immigration Law, which were discussed tentatively in the conference with Mr. Long.

It seems that the Japanese Embassy is of opinion that the application of the contract labor provisions to the cases of employees of the Yokohama Specie Bank in the manner in which these provisions were applied in the particular case of

Yogo Negishi will work "a great hardship upon the bank," for these two reasons:—(a) That it is often to the interest of the Bank to transfer its employees from one place to another, not with the idea of permanent residence but with the idea of remaining until such time as the affairs of the Bank make it expedient for them to be transferred to another place and the vacancy filled by the transfer of another employee; and (b) that occasionally there occur reasons for increases in the force of the Bank, that is some particular branch thereof located at various places throughout the world. Taking up these two matters, in the reverse order of that in which they are stated, the following may be said:

There is a special exception to the provision of Section 3 of the Immigration Act that excludes contract labor, reading:

> "*Provided further*, That skilled labor, if otherwise admissible, may be imported if labor of like kind unemployed can not be found in this country, and the question of the necessity of importing such skilled labor in any particular instance may be determined by the Secretary of Labor upon the application of any person interested, such application to be made before such importation, and such determination by the Secretary of Labor to be reached after a full hearing and an investigation into the facts of the case."

This exemption is, of course, recognized in Section 5 of the Act prescribing the penalty for violating Section 3 by im-

porting a contract laborer without first securing the consent of the Secretary of Labor in pursuance of said exemption; and a method of taking advantage of the exemption is prescribed in detail in Rule 27 of the Immigration Regulations. (See pages 7, 8, and 72-73 of the inclosed pamphlet containing the Immigration Law and Rules.)

Presumably in many, if not all, instances in which it might be necessary for a particular branch of the Yokohama Specie Bank situated in this country to increase its force of expert employees, it would readily be possible for the Bank to show in advance of attempting to import an employee from Japan or from any other foreign country in which the Bank maintains a branch, that a person technically qualified to fill the position could not be found not already employed in the United States; for it seems to the Department that in cases of this kind, simply as a matter of economic business administration, it must be that the bringing of an employee from a distance is resorted to merely because a man satisfactorily qualified as an expert in the kind of business that is conducted by the Bank is not available near at hand.

It is apprehended that another exception to Section 3 of the Immigration Act may afford the means of satisfactorily caring for the other phase of the proposition advanced by the Chargé, which exception reads:

> "*Provided further,* That the Commissioner General of Immigration with the approval of the Secretary of Labor shall issue rules and prescribe conditions, including exaction of such bonds as may be necessary, to control and regulate the admission and return of otherwise inadmissible aliens applying for temporary admission."

This exception was placed in the Immigration Law at the request of this Department with a view to meet a situation which had caused some embarrassment in the enforcement of the Act of 1907. Certain manufacturers of this country, especially those engaged in the manufacture of electrical machinery, had applied at various times for permission to bring to the United States from foreign countries, particularly from China, Japan, and the several republics of South America young men who had been employed in one capacity or another in the foreign sales agencies of such manufactories and who had exhibited an aptitude for the handling of their business, the idea being to give these young men a course of practical training in the manufactories which would thoroughly acquaint them with the methods employed in making the various machines and thereby enable them to become expert salesmen when, after receiving the practical training they would be returned by the manufacturers to the country from which brought. The administrative details with regard to the operation of this exception are prescribed in Subdivision 6 of Rule 27. (See pages 8 and 73-74 of inclosed pamphlet.)

While the above quoted exception and the regulation mentioned were enacted and promulgated, respectively, to meet the particular situation described, it will be noted that they are couched in terms somewhat broader than the scope of that particular situation; and it seems possible that the Yokohama Specie Bank could accomplish its desires with

regard to the training of its employees by invoking the provisions in question.

Of course it must not be overlooked that both of the foregoing provisions of law and the rule promulgated in pursuance thereof deal with special exceptions to general provisions of the statute, and that as a matter of proper legal construction as well as of good administration it is necessary for this Department to require wherever the benefit of such exceptions is sought that a satisfactory affirmative showing shall be made by the person claiming the benefit. In other words, the burden of proof would be upon the Yokohama Specie Bank. Yet it does not seem to this Department that it ought to be a very difficult matter for the Bank to maintain that burden in every instance in which its desire to secure either an expert employee or a student employee was within the spirit and intent of the exemptions themselves.

With regard to the reference made by the Chargé to the case of Tamehachi Kawamura, the Department desires to call your attention to its letters to you of May 25 and June 11, 20, and 30, 1914. The statement that Kawamura was excluded as a matter of principle and admitted as a matter of practice is not exactly correct. He was excluded on principle, because he was a contract laborer and because, although afforded extraordinary opportunity to do so, the merchant importing him had failed to establish affirmatively and satisfactorily that he could not find in this country unemployed an employee possessing the skill which it was claimed Kawamura possessed. But it was very distinctly

held at the time that the case did not establish a practice; that the man was being admitted simply because of the equities involved, his importation having been arranged and his migration started before either the importer or the alien had become aware of the decision of the Supreme Court in the Lapina v. Williams case, to which extended reference has been made in this Department's correspondence with you concerning the Negishi case. It should be added, moreover, that the Kawamura case is but another instance in which this Department gave notice of the fact that it considered the opinion of the Attorney General in the McNeir case had been substantially overruled by the Supreme Court and that the only exceptions to the contract labor law which would be allowed by this Department were those specifically named in the statute itself.

Respectfully,

Assistant Secretary.

附屬書第八十二號　銀行員等ノ入國ニ關スル在本邦米國大使宛外務大臣覺書

February 23, 1918.

My dear Ambassador,

At the request of Viscount Motono, I take the liberty of enclosing herewith a Memorandum which explains itself. He places much importance on an early adjustment of the question set forth in the Memorandum, and he confidently hopes that Your Excellency may be so good as to co-operate with him in his efforts to that end. I may add that an order of deportation on the same ground as in the case under examination was recently given by the Immigration Office at New York against Mr. Masao Shoda, an assistant in the New York Office of the Nippon Yusen Kaisha, who having been transferred to that post from the London Office of the Company arrived there on September 1 last. In view of the growing number of similar incidents, it seems highly desirable that a satisfactory solution of the difficulty could be found as speedily as possible.

Yours sincerely,

K. Shidehara.

[Enclosure]

MEMORANDUM.

The attention of the Japanese Government has been called to the case of Mr. Yogo Negishi, an assistant in the Honolulu Office of the Yokohama Specie Bank, who having arrived at Honolulu on September 26, 1917, on board the "Shinyo Maru", received the order of deportation from the Immigration Office at that port, on the ground that he should be classed as a contract laborer.

The Japanese Embassy at Washington duly brought the case to the notice of the American Government, and applied for the cancellation of the order issued against Mr. Negishi. In support of that application, he referred to the arrangement embodied in the Note No. 66 of the Secretary of State to the Japanese Minister under date of March 26, 1902, in which the American Government gave decision that the employees of the Yokohama Specie Bank should be exempted from the operation of the alien contract labor law.

To the representation thus made by the Japanese Embassy in favor of Mr. Negishi, the Department of State declares in reply that the arrangement of 1902, being superannuated, has long ceased to be operative. It holds that all aliens coming to the United States under similar conditions should be treated as contract laborers within the meaning of the existing Immigration Law of the country.

It is evident that the enforcement of the rules governing contract laborers upon the business staff of banking and other commercial establishments would seriously interfere with the efficient working of those Japanese establishments in the United States, which naturally require the service of Japanese staff. The position now taken by the American Government would thus serve to hamper to a large extent the free development of trade between Japan and the United States.

It is difficult to understand that the Immigration Law of the United States, and in particular, the rules which it contains in regulation of contract labor are intended to apply to the business staff of commercial houses, not partaking of the nature of laboring class in the generally accepted sense of the term. It is however unnecessary to dwell at length upon that phase of the question which relates to the technical construction of the domestic laws of the United States. The Japanese Government would only point out that in their estimation, the procedure now enforced in the United States with respect to the admission of the employees of commercial establishments is at variance with the international practice commonly adopted, and is not quite in harmony with the spirit of the Treaty of Commerce and Navigation between Japan and the United States, which guarantees to the subjects or citizens of one country liberty to enter, travel and reside in the territories of the other, to carry on trade and generally to do anything incident to and necessary for trade, upon national footing.

It will be recalled that the Japanese Government, in spite of such guarantees contained in the Treaty, have taken into consideration the situation surrounding the labor problem in the United States, and have maintained with effectiveness and loyalty the measures of self-restraint looking to the control of the emigration of laborers to America. Due to those efforts, the agitation on both sides of the Pacific over the question of Japanese Immigration, which had at one time assumed a serious aspect, has been successfully arrested. It seems extremely unfortunate at this moment that the American Government should find it necessary to declare the abolition of the arrangement of 1902, and to subject the Japanese of good standing to the humiliating treatment of a contract laborer. Especially is it regrettable to note the sign of the growing public attention to Mr. Negishi's case which, it is apprehended, might lead to the revival of the popular agitation now happily set at rest.

In submitting the foregoing considerations to the notice of His Excellency the American Ambassador, the Japanese Government sincerely hope that the Government of the United States may find it possible to reconsider the question in a broader light than of the technical interpretation of domestic laws.

Department of Foreign Affairs,
Tokio, February 23rd, 1918.

附屬書第八十三號　同上ニ對スル在米大使宛國務長官覺書

MEMORANDUM.

The Secretary of State presents his compliments to His Excellency the Japanese Ambassador, and, referring to his Embassy's note of the 9th ultimo, has the honor to state that a letter has been received from the Acting Secretary of Labor in regard to the general subject of the admission to the United States of Japanese coming to accept employment in American branches of Japanese banks and to the specific case of Yogo Negishi. The substance of the letter is as follows.

The Department of Labor takes the position that the provision of the immigration law excluding from the United States aliens of the class commonly termed "contract laborers" is not in derogation of the Treaty of Commerce with Japan, inasmuch as such provision applies to aliens of all nationalities in the same manner and to the same extent. It is believed by the Department of Labor that this point is conceded by the Japanese Foreign Office.

The Department of Labor points out specifically and in detail the provisions of the immigration rules that are enforced generally in matters of this kind and the method of their operation. As bearing on the case in question the

Department of Labor quotes Subdivision 1 of Rule 27 as follows:

> "Contract laborers are aliens 'who have been induced, assisted, encouraged, or solicited to migrate to this country by offers or promises of employment, whether such offers or promises are true or false, or in consequence of agreements, oral, written, or printed, express or implied, to perform labor in this country of any kind, skilled or unskilled,' or 'persons who have come in consequence of advertisements for laborers printed, published, or distributed in a foreign country.'"

Aliens falling within the foregoing definition, however, may be admitted if they come within certain categories such as professional actors, artists, lecturers, persons belonging to a recognized learned profession, et cetera. The Department of Labor realizes that in rare instances banking houses might desire to import an employee who belongs to a recognized learned profession who would perform, after importation, work of the kind usually done by a member of such profession and in such a contingency the alien would be admitted under the regulations provided in such cases.

The Department of Labor believes, however, that the exception which would much more frequently be encountered in applying the law to cases such as the one of Yogo Negishi is the exemption (j) reading as follows:

> "Otherwise admissible skilled labor, if labor of like kind unemployed cannot be found in this country and the Secretary has granted permission in advance of

the migration of such skilled laborers for their importation."

Under this exemption application for permission to import the alien is required by the statute to be made to the Secretary of Labor in advance of attempting to import the labor. Subdivisions 3, 4 and 5 of Rule 27 describe in minute detail the method of operation followed in giving effect to the exemption under paragraph (j). These subdivisions read as follows:

"Subd. 3. *Advance applications for privilege of importing skilled labor.* Applications for permission to import otherwise admissible skilled labor in accordance with sections 3 and 5 and paragraph (j) of subdivision 2 hereof shall be submitted by the person, company, or corporation seeking such privilege to the immigration official in charge of the district within which it is proposed to employ such skilled labor. The application shall be in the form of an affidavit, drawn in triplicate, and shall state clearly all facts and circumstances material to the case, including (a) the number and sex of the persons whom the applicant desires to import, (b) a nontechnical description of the work which it is intended they shall perform, (c) whether the industry is already established or is new in the United States, (d) the approximate length of the time required for one to become skilled in the trade, (e) the wages paid and hours of labor required, (f) whether or not a strike exists or is threatened among applicant's employees or

there is a lockout against such employees, (g) what city or cities if any constitute the center of the trade in this country, (h) whether or not there are any journals specially devoted to the industry, and (i) the nature of the efforts if any made to secure the desired labor in the United States and the results of such efforts. The application shall be supported by such affidavits (also in triplicate) as the applicant can furnish. The applicant shall also furnish, or agree to furnish at a later date, the names, ages, nationality and last permanent foreign residence of the aliens whom he desires to import, and the name of the port at which and of the vessel by which they will arrive, and the date of the proposed arrival.

"Subd. 4. *Investigation of application.* Thereupon the immigration official in charge shall conduct a thorough investigation (using contract-labor inspectors employed in pursuance of section 24 whenever practicable) and shall forward two copies each of the application, of the accompanying affidavits, and of the report of the investigation, respectively together with his recommendation, to the bureau. The entire record will then be summarized by the bureau and submitted to the department with appropriate recommendation. Counsel may be employed in connection with such cases before the office of the immigration official in charge, or the bureau, or both, but all evidence shall be submitted to and investigated by the immigration official in charge.

"Subd. 5. *Decision upon application.* When a decision is rendered by the Secretary upon the application the immigration official in charge shall be notified immediately, and he in turn shall notify the applicant of the purport of such decision. If it is favorable, a copy of the record will be transmitted to the port at which it is proposed the alien contract laborers shall enter, with instructions to the immigration official there in charge to admit such laborers if upon arrival and examination they are found to be admissible under all other provisions of the law."

In commenting on the operation of this rule the Department of Labor states:

"This rule has been in effect for almost a year, and has been found to operate satisfactorily to all concerned. Many hundreds of cases have been handled in accordance with its provisions, including employees for practically every kind of business that exists in this country today—banking, merchandising, manufacturing, transportation, all kinds of mining, construction, etc., etc.; and of course the provisions of the rule have been applied with respect to those high-class, skilled, and often quasi-professional classes without any regard whatever for the nationality of the persons concerned. Moreover, it is not only foreign corporations, companies, and persons doing business within the United States that are required to comply with this rule; but it is

applied to the same extent and in exactly the same manner to corporations, companies and persons that are distinctly American. To make this latter point perfectly clear, it might be stated by way of illustration that W. R. Grace and Company, an American Corporation with headquarters in New York City, and with branch houses engaged in banking, shipping, etc., in various foreign countries, has found it necessary on several occasions to invoke and follow the rule in order to bring into the United States alien employees whose expert services were desired in any connection."

It is thought also by the Department of Labor that subdivision 6 of Rule 27 provides another means under which concerns doing an international business may further their interests through placing in their branch houses located in the United States foreign employees whom it is necessary to train in order to fit them to handle the international phases of their business. Subdivision 6 reads as follows:

"Subd. 6. *Admission of 'student laborers'.* In pursuance of the provision of section 3 authorizing the bureau and the department to prescribe conditions 'to control and regulate the admission and return of otherwise inadmissible aliens applying for temporary admission,' employers of skilled labor desirous of training aliens in their establishments may be granted such privilege by the department, provided the prospective 'student laborers' are admissible in every other respect except that they migrate under contract, and provided

a bond is furnished for each such alien in the penalty of not less than $500, guaranteeing that the alien will be employed in no other than a student capacity while within the United States and will leave this country immediately upon the conclusion of his course of training. Applications for this privilege and proof in support thereof should be submitted in substantial accordance with the provisions of subdivision 5 hereof."

The Department of Labor points out that Japanese banking houses might desire to avail themselves of the provisions of this rule, just as a number of American corporations conducting an international business have found it necessary to do in order to train men for some special line of international business. The Department of Labor believes that subdivision 6, above quoted, is broad and explicit enough to meet practically every case of this nature which may arise. It believes also that there is no obstacle in the way of Japanese banking and business concerns bringing into the United States, in pursuance of the above rules and regulations, such specially skilled clerks and employees as may be needed for special training in their methods of business and that they transfer them from place to place if need should arise.

The Department of State would be gratified if the arrangement herein outlined for the handling of cases similar

to one of Yogo Negishi should prove satisfactory to His Excellency's Government.

Department of State,
Washington, May 9, 1918.

附屬書第八十四號　領事ノ在留證明書發給ニ當リ不正渡航者取調方ヲ要求セル在米代理大使宛國務長官書面

Department of State,
Washington.

August 14, 1919.

My dear Mr. Chargé d'Affaires:

I am in receipt of a letter of the 4th instant from the Department of Labor transmitting the enclosed copy of a self-explanatory letter from the Commissioner of Immigration at Seattle, Washington, having particular reference to the case of the Japanese subject, Tamiya Masao, who arrived at that port on June 25 last, and was later permitted to enter, on being cured of uncinariasis, with which disease he was found to be afflicted on his arrival. There is also enclosed a copy of the testimony given by him before the immigration board of special inquiry, together with a translation of the passport which he presented.

The Department of Labor suggests that this matter be brought to your attention in order that you may give consideration to the suggestion contained in the last paragraph of the Commissioner's letter that the various Japanese Consuls stationed in this country be required, before issuing to subjects of their country about to depart for Japan (with the intention of returning here), to ascertain whether they have even been legally admitted and, if not, if their residence has been legalized by the immigration authorities.

I am, my dear Mr. Debuchi,

Very sincerely yours,

(Signed) Robert Lansing.

Mr. Katsuji Debuchi,
Japanese Chargé d'Affaires ad interim.

[Enclosure]

July 26th, 1919.

Commissioner General of Immigration,
Washington, D.C.

I have the honor to enclose herewith copy of a letter signed by Immigrant Inspector F.S. McCullough, with enclosures, relative to the case of TAMIYA MASAO, who arrived on the Kashima Maru, June 25, 1919, and was admitted on July 15th after being certified as free from disease.

Tamiya was granted a passport by the Japanese Government on the ground of being a former resident of the

United States. It will be noted that he was not a former legal resident of this country except in so far as his residence had been automatically legalized by residence here of more than three years.

All Japanese laborers residing in the United States who wish to make a trip to Japan with the intention of returning, must appear before the Japanese Consul and secure a certificate of residence on which the home Government issues a passport.

Most of said Japanese are in possession of passports showing a legal admission to this country; some of them are not in possession of passports, claiming them to have been lost, etc.

It would seem that if the Japanese Government wishes to carry out the spirit and letter of the Japanese Agreement that a "former resident of the United States" should mean former legal resident of the United States, and that a Japanese laborer should not be permitted to desert from a vessel in the United States, remain for a period exceeding three years, and then on a visit to Japan secure a passport as a former resident, thus enabling him to bring in a wife and family later.

No doubt, if the matter was called to the attention of the Japanese Government instructions would be issued to their Consuls to secure evidence of legal admission, either

from passports presented, or from the local Immigration officers, before granting certificates of residence.

(Signed) Henry M. White,

Commissioner.

附屬書第八十五號　不正入國者ノ家族呼寄問題ニ關スル國務省覺書

MEMORANDUM.

With reference to the memorandum left at the Department of State by Mr. Debuchi on February 11, 1920, regarding the exclusion of certain Japanese seeking to join their families in this country, a copy of which memorandum was sent to the Department of Labor, there is enclosed herewith for the information of the Japanese Embassy a copy of that Department's letter of April 13, relative thereto.

Department of State,
Washington, April 28, 1920.

[Enclosure]

Department of Labor,
Office of the Assistant Secretary,
Washington.
April 13, 1920.

The Honorable
The Secretary of State.
Sir:

Referring to your letter of February 13, last (FE-150.

946/89), with which was transmitted a copy of a memorandum left at your Department by the Japanese Embassy regarding the exclusion of certain Japanese seeking to join members of their families in this country, I have the honor to state that in each and every case of this character which has come to the attention of the Department there was ample evidence to indicate that the resident member of the family had gained unlawful admission to the United States. While in some instances the five year limitation had expired and the Government had, therefore, lost the right to deport, that fact could not possibly operate to clothe the subject concerned with the status of an alien lawfully resident within the United States. Many of these Japanese, when questioned, admitted that they had entered the United States unlawfully, either by smuggling in across the land boundaries or by deserting vessels on which they arrived as crew members. For obvious reasons, the Department can not permit laborers of any nationality to smuggle into the United States and then proceed to compound their frauds by having various members of their families admitted to them. On the contrary, it is its intention to discourage smuggling operations to the fullest possible extent, and this is merely one of the means that it has adopted with a view to coping with the situation which has grown out of the practice which many Japanese subjects are following of gaining unlawful admission to the United States, principally by smuggling in from Mexico across the land boundary.

With reference to the inquiry made in the last paragraph

of the memorandum of the Japanese Embassy, you are advised that it is the invariable practice of the Immigration Service to ascertain, when members of the family of a resident alien seek admission, whether or not said resident member obtained admission in lawful manner. Various expressions in the immigration law lead it to believe that this practice is in full accord with the intent of Congress in enacting said law. As an illustration, the first proviso to Section 3 of the Immigration Act, which construes certain exceptions to the literacy clause, should be noted. Said clause reads as follows: "That any admissible alien, or any alien heretofore or hereafter *legally* admitted, or any citizen of the United States, may bring in or send for his father or grandfather over fifty-five years of age, his wife," etc. One not "legally admitted" may not bring in or send for his family under this clause. It is true that the Department in many instances legalizes the admission of an alien who secured admission by unlawful means, this in order that he may secure naturalization under our laws, or have members of his family admitted to him. It is essential, in these cases, that the alien shall show that he was lawfully entitled to admission at the time of his entry.

It is believed that, if Japanese Consuls throughout the United States, generally, would insist that Japanese subjects residing here, when about to send abroad for members of their families, furnish satisfying proof of the legality of

their residence here before issuing to them "Permits of residence," all cause for complaint along this line would soon be eliminated.

Very truly yours,

(Signed) Louis J. Post,

Assistant Secretary.

附屬書第八十六號　寫眞結婚ニ對スル非難ヲ摘要セル國務省書面

Department of State,
Washington.

November 22, 1919.

Dear Mr. Debuchi:

In accordance with your request in our conversation of yesterday, I am furnishing you herewith a statement of the reasons usually assigned, by those interested in the problem, as the grounds of objection to the "picture bride" system:

1. The rapid increase in the numbers of the picture brides coming to the United States threatens a continuance of the problems supposedly settled by the Gentlemen's Agreement of 1908. The extent of this increase can be judged from the following official figures setting forth the numbers of Japanese immigrant aliens (i.e. arriving aliens whose permanent domicile has been outside the United States who intend to reside permanently in the United States) admitted at mainland ports during the years 1902-08 and 1909-19:

	Male	Female		Male	Female
1902	5,037	794	1905	3,829	501
1903	6,488	508	1906	4,443	745
1904	7,084	683	1907	11,824	1,064

	Male	Female		Male	Female
1908	6,710	1,630	1914	1,814	3,045
Total	45,415	5,925	1915	2,835	3,138
1909	835	761	1916	2,938	2,967
1910	611	945	1917	2,825	2,917
1911	1,012	1,893	1918	3,737	3,569
1912	1,069	2,286	1919	3,750	3,921
1913	1,707	2,795	Total	23,133	28,237

2. These women are in a true sense laborers and work in the fields with men from the moment of their arrival, thus defeating the intention of the Gentlemen's Agreement to exclude Japanese laborers.

3. The nature of these marriages is foreign to our customs, and this fact, apart from all legal considerations, tends to increase the feeling on the whole subject.

4. It is furthermore alleged, and not without some reasonable grounds but as yet without final proof, that some at least of the present influx of "picture brides" are coming as the wives, not of Japanese laborers resident here in 1908, but of the children of such Japanese, a circumstance which tends, it is felt, to perpetuate and intensify the problems, economic, social, and political, arising from the presence in our body politic of an increasingly large, non-assimilable, alien population.

Whatever weight is to be attached to these several reasons, I trust that this statement of them may be of use for your purpose of indicating the psychology of the present feeling on the subject.

Yours very sincerely,

(Signed) J. V. A. MacMurray.

Mr. Katsuji Debuchi,
Counsellor of the Japanese Embassy.

附屬書第八十七號　寫眞結婚婦人渡航禁止ニ關スル在米大使宛外務大臣訓電

SUBSTANCE OF A TELEGRAM RECEIVED BY THE JAPANESE AMBASSADOR AT WASHINGTON FROM THE MINISTER FOR FOREIGN AFFAIRS, TOKIO.

The Japanese Government have submitted to their careful examination the question of "picture brides", to which the Secretary of State referred in his conversation with you on November 20. Relying upon his friendly assurance given to you on that occasion, and counting on the co-operation of the United States Government to the end that plans of anti-Japanese legislation in the United States be effectively checked, the Japanese Government have approached the question apart from its legal phase, which was made a subject of discussion, resulting in a satisfactory solution, between the State Department and the Japanese Embassy at Washington in the course of 1917, and they have now decided to take measures of prohibition of picture brides from proceeding to the Continental United States. That decision has not been taken lightly, and the Japanese Government would evidently be placed in an extremely difficult position, if in spite of such self-denying act on their part, anti-Japanese movements were allowed to continue unabated in California or elsewhere.

You will bring these considerations to the attention of the Secretary of State, and express the hope that the sincere desire of the Japanese Government to remove causes of agitation and misunderstanding between the two nations will be duly appreciated, and that the United States Government will kindly use all possible endeavors to check the passage of anti-Japanese enactments.

Detailed plans of giving effect to the foregoing decision are obviously a domestic question for Japan, but in order to prevent misunderstanding, you will make the following points clear to the Secretary of State.

1. Considering that the prohibition in question is bound to affect in no small degree rights and interests of individuals, and that it can not be viewed in the same light as in the case of repression of unlawful acts, the Japanese Government feel that in carrying it into effect, they should avoid abrupt and harsh measures as far as possible. Taking all the circumstances into account, the Japanese Government propose to fix the last day of February, 1920, as the time limit within which passports are to be granted to picture brides. The reason for this delay in the enforcement of the prohibition is that a period of two months, and, in many cases, of half a year, is actually required to complete all necessary arrangements for the departure of the brides after the marriage has been lawfully performed, and that, consequently, if the prohibition be put into operation before the expiry of the time limit defined above, it would undoubtedly cause great hardship to the parties whose marriage has already been, or is

shortly to be, performed. It should be added that Japanese passports are valid if the persons to whom they are granted leave Japan within six months from the date of the passports, and that therefore the brides obtaining passports on the last day of February next, for instance, will be allowed to leave Japan until the end of August.

2. It may happen that Japanese residents of suitable social and business standing in America desire to send for their fiancées in Japan and to perform marriage in the United States. In such special cases, the Japanese Government will carefully examine all the relevant facts and, upon being satisfied of the bona fide nature of the proceedings, may grant passports to the intending brides. It is, however, anticipated that those cases will practically be of a very limited number.

附屬書第八十八號　寫眞結婚禁止ニ關スル在米大使宛國務長官半公信及在米大使覺書

No. 1.

The Secretary of State,
Washington.

December 13, 1919.

My dear Mr. Ambassador:

I have been informed by Mr. Long of your conversation with him this morning on the subject of "picture brides". The statement in the communication which you were good enough to write to me, and of which you left with me a copy on December 8th, that your Government intended to cease the issuance of passports to picture brides on the last of February, 1920, will be entirely agreeable.

The memorandum which you left with me suggests that the Government of the United States use all possible endeavors to check the passage of the anti-Japanese enactments, and I take pleasure in saying that the policy of this Government has been to use all legitimate means to prevent the enactment of such measures, and to further in every way the friendly relations which exist between our two governments. Our policy has not changed in that respect.

It is a great pleasure to feel that we have satisfactorily, and so promptly adjusted this question.

I am, my dear Mr. Shidehara,

Very sincerely yours,

(Signed) Robert Lansing.

No. 2.

Imperial Japanese Embassy,
Washington.

MEMORANDUM.

The Japanese Ambassador, under instructions from his Government, has the honor to make the following communication to the Government of the United States;

The Japanese Government, placing supreme importance upon the promotion of friendly relations between Japan and the United States, and having carefully examined in that spirit the situation created by the question of the so-called "picture brides", have decided to adopt measures for the prohibition of such brides from proceeding to the Continental United States.

附屬書第八十九號　一九二〇年加州土地法

AN ACT RELATING TO THE RIGHTS, POWERS AND DISABILITIES OF ALIENS AND OF CERTAIN COMPANIES, ASSOCIATIONS AND CORPORATIONS WITH RESPECT TO PROPERTY IN THIS STATE, PROVIDING FOR ESCHEATS IN CERTAIN CASES, PRESCRIBING THE PROCEDURE THEREIN, REQUIRING REPORTS OF CERTAIN PROPERTY HOLDINGS TO FACILITATE THE ENFORCEMENT OF THIS ACT, PRESCRIBING PENALTIES FOR VIOLATION OF THE PROVISIONS HEREOF, AND REPEALING ALL ACTS OR PARTS OF ACTS INCONSISTENT OR IN CONFLICT HEREWITH.

The People of the State of California do enact as follows:

Section 1. All aliens eligible to citizenship under the laws of the United States may acquire, possess, enjoy, transmit and inherit real property, or any interest therein, in this State, in the same manner and to the same extent as citizens of the United States, except as otherwise provided by the laws of this State.

Sec. 2. All aliens other than those mentioned in section one of this act may acquire, possess, enjoy and transfer real property, or any interest therein, in this State, in the manner and to the extent and for the purpose prescribed by any treaty now existing between the Government of the

United States and the nation or country of which such alien is a citizen or subject, and not otherwise.

Sec. 3. Any company, association or corporation organized under the laws of this or any other state or nation, of which a majority of the members are aliens other than those specified in section one of this act, or in which a majority of the issued capital stock is owned by such aliens, may acquire, possess, enjoy and convey real property, or any interests therein, in this State, in the manner and to the extent and for the purposes prescribed by any treaty now existing between the Government of the United States and the nation or country of which such members or stockholders are citizens or subjects, and not otherwise. Hereafter all aliens other than those specified in section one hereof may become members of or acquire shares of stock in any company, association or corporation that is or may be authorized to acquire, possess, enjoy or convey agricultural land, in the manner and to the extent and for the purposes prescribed by any treaty now existing between the Government of the United States and the nation or country of which such alien is a citizen or subject, and not otherwise.

Sec. 4. Hereafter no alien mentioned in section two hereof and no company, association or corporation mentioned in section three hereof, may be appointed guardian of that portion of the estate of a minor which consists of property which such alien or such company, association or corporation is inhibited from acquiring, possessing, enjoying

or transferring by reason of the provisions of this act. The public administrator of the proper country, or any other competent person or corporation, may be appointed guardian of the estate of a minor citizen whose parents are ineligible to appointment under the provisions of the section.

On such notice to the guardian as the court may require, the Superior Court may remove the guardian of such an estate whenever it appears to the satisfaction of the court:

(a) That the guardian has failed to file the report required by the provisions of section five hereof; or

(b) That the property of the ward as not been or is not being administered with due regard to the primary interest of the ward; or

(c) That facts exist which would make the guardian ineligible to appointment in the first instance; or

(d) That facts establishing any other legal ground for removal exist.

Sec. 5. (a) The term "trustee" as used in this section means any person, company, association or corporation that as guardian, trustee, attorney-in-fact or agent, or in any other capacity has the title, custody or control of property, or some interest therein, belonging to an alien mentioned in section two hereof, or to the minor child of such an alien, if the property is of such a character that such alien is inhibited from acquiring, possessing, enjoying or transferring it.

(b) Annually on or before the thirty-first day of January every such trustee must file in the office of the Secretary of

State of California and in the office of the County Clerk of each county in which any of the property is situated, a verified written report showing;

(1) The property, real or personal, held by him for or on behalf of such an alien or minor;

(2) A statement showing the date when each item of such property came into his possession or control;

(3) An itemized account of all expenditures, investments, rents, issues and profits in respect to the administration and control of such property with particular reference to holdings of corporate stock and leases, cropping contracts and other agreements in respect to land and the handling or sale of products thereof.

(c) Any person, company, association or corporation that violates any provisions of this section is guilty of a misdemeanor and shall be punished by a fine not exceeding one thousand dollars or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

(d) The provisions of this section are cumulative and are not intended to charge the jurisdiction or the rules of practice of courts of justice.

Sec. 6. Whenever it appears to the court in any probate proceeding that by reason of the provisions of this act any heir or devisee cannot take real property in this state or membership or shares of stock in a company, association or corporation which, but for said provisions, said heir or devisee would take as such, the court, instead of ordering

a distribution of such property to such heir or devisee, shall order a sale of said property to be made in the manner provided by law for probate sales of property and the proceeds of such sale shall be distributed to such heir or devisee in lieu of such property.

Sec. 7. Any real property hereafter acquired in fee in violation of the provisions of this act by any alien mentioned in section two of this act, or by any company, association or corporation mentioned in section three of this act, shall escheat to, and become and remain the property of the State of California. The attorney general or district attorney of the proper county shall institute proceedings to have the escheat of such real property adjudged and enforced in the manner provided by section four hundred and seventy-four of the Political Code and title eight, part three of the Code of Civil Procedure. Upon the entry of final judgment in such proceedings, the title to such real property shall pass to the State of California. The provisions of this section and of sections two and three of this act shall not apply to any real property hereafter acquired in the enforcement or in satisfaction of any lien now existing upon, or interest in such property, so long as such real property so acquired shall remain the property of the alien, company, association or corporation acquiring the same in such manner. No alien, company, association or corporation mentioned in section two or section three hereof shall hold for a longer period than two years the possession of any agricultural land acquired in the enforcement of or in satisfaction of

a mortage or other lien hereafter made or acquired in good faith to secure a debt.

Sec. 8. Any leasehold or other interest in real property less than the fee, hereafter acquired in violation of the provisions of this act by any alien mentioned in section two of this act, or by any company, association or corporation mentioned in section three of this act, shall escheat to the State of California. The attorney general or district attorney of the proper county shall institute proceedins to have such escheat adjudged and enforced as provided in section seven of this act. In such proceedings the court shall determine and adjudge the value of such leasehold or other interest in such real property, and enter judgment for the State for the amount thereof together with costs. Thereupon the court shall order a sale of the real property covered by such leasehold, or other interest, in the manner provided by section twelve hundred seventy-one of the Code of Civil Procedure. Out of the proceeds arising from such sale, the amount of the judgment rendered for the State shall be paid into the State Treasury and the balance shall be deposited with and distributed by the court in accordance with the interest of the parties therein. Any share of stock or the interest of any member in a company, association or corporation hereafter acquired in violation of the provisions of section three of this act shall escheat to the State of California. Such escheat shall be adjudged and enforced in the same manner as provided in this section for the escheat of a leasehold or other interest in real property less than the fee.

Sec. 9. Every transfer of real property, or of an interest therein, though colorable in form, shall be void as to the state and the interest thereby conveyed or sought to be conveyed shall escheat to the State if the property interest involved is of such a characer that an alien mentioned in section two hereof is inhibited from acquiring, possessing, enjoying or transferring it, and if the conveyance is made with intent to prevent, evade or avoid escheat as provided for herein.

A *prima facie* presumption that the conveyance is made with such intent shall arise upon proof of any of the following groups of facts:

(a) The taking of the property in the name of a person other than the persons mentioned in section two hereof if the consideration is paid or agreed or understood to be paid by an alien mentioned in section two hereof;

(b) The taking of the property in the name of a company, association or corporation, if the memberships or shares of stock therein held by aliens mentioned in section two hereof, together with the memeberships or shares of stock held by others but paid for or agreed or understood to be paid for by such aliens, would amount to a majority of the membership or the issued capital stock of such company, association or corporation;

(c) The execution of a mortgage in favor of an alien mentioned in section two hereof if said mortgage is given possession, control or management of the property.

The enumeration in this section of certain presumptions

shall not be so construed as to preclude other presumptions or inferences that reasonably may be made as to the existence of intent to prevent, evade or avoid escheat as provided for herein.

Sec. 10. If two or more persons conspire to effect a transfer of real property, or of an interest therein, in violation of the provisions hereof, they are punishable by imprisonment in the county jail or state penitentiary not exceeding two years, or by a fine not exceeding five thousand dollars, or both.

Sec. 11. Nothing in this act shall be construed as a limitation upon the power of the state to enact laws with respect to the acquisition, holding or disposal by aliens of real property in this state.

Sec. 12. All acts and parts of acts inconsistent or in conflict with the provisions hereof are hereby repealed; *provided,* that—

(a) This act shall not affect pending actions or proceedings, but the same may be prosecuted and defended with the same effect as if this act had not been adopted;

(b) No cause of action arising under any law of this state shall be affected by reason of the adoption of this act whether an action or proceeding has been instituted thereon at the time of the taking effect of this act or not actions may be brought upon such causes in the same manner, under the same terms and conditions, and with the same effect as if this act had not been adopted;

(c) This act in so far as it does not add to, take from

or alter an existing law, shall be construed as a continuation thereof.

Sec. 13. The Legislature may amend this act in furtherance of its purpose and to facilitate its operation.

Sec. 14. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The people hereby declare that they would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

附屬書第九十號　加州土地法制定阻止ヲ要求セル在米大使覺書

It appears that a movement has been started by a certain section of people in California to enact, through process of initiative, new anti-Japanese legislation abridging the rights of Japanese subjects and of their children born in the United States, with regard to acquisition or holding of any interest in real property. The proposed measure is reported to be of such sweeping nature as to deprive Japanese settled agriculturists practically of their principal means of livelihood. It will operate to the immense hardship of peaceful and law-abiding Japanese residents while the invidious discrimination which it implies cannot fail to create a very painful impression in Japan. Developments of the situation respecting this movement are viewed by the Japanese Government with deep concern.
