附屬書第九十二號　一九二〇年加州土地法ニ對スル日本政府抗議覺書

MEMORANDUM.

The alien land law recently adopted in California through the initiative process came into force on December 9, 1920. Insofar as it concerns the position of aliens ineligible to American citizenship, it is obviously calculated to add to the rigor and activity of discrimination characterizing the cognate statute of 1913.

It will be recalled that the California enactment of 1913 gave rise to a formal protest of the Japanese Government, as being in its manifest intent repugnant to all principles of fairness and justice, and disregardful of the letter as well as the spirit of the existing treaty between Japan and the United States.

These objections apply to the new law of 1920 with still greater force and cogency, and the Japanese Government are unable to conceal from themselves the sad disappointment with which they view the adoption of that measure. They are moreover apprehensive that California, by such acts of glaring discrimination against Japanese, has blazed a wrong trail in legislation, with consequences which it is difficult to foresee.

They, however, desire to assure the American Government of their unwavering faith in the supreme importance which they attach to the maintenance of the traditional relations of good understanding between the two nations.

While fully realizing the gravity of the difficulties, both actual and potential, consequent upon the California enactments under review, the Japanese Government are confident that, if approached in the spirit of good will and mutual accommodation, the whole problem is susceptible of a satisfactory adjustment consistent with honor and with the true interests of both countries.

Believing that these views are shared by the American Government, they are gratified that frank and exhaustive discussions of an informal character have been in progress between Ambassador Morris and Ambassador Shidehara at Washington, with the acquiescence of their respective governments, in an earnest effort to compose the difficulties in question.

It is the sincere desire of the Japanese Government that these discussions will soon be brought to a happy conclusion, and that both Governments will be able forthwith to examine and approve the plans of adjustment to be recommended by the two Ambassadors.

In the meantime, the development and final outcome of the pending discussions are being looked forward to with confidence in Japan. It is hoped that the American Government will appreciate the degree of forbearance exercised by

the Japanese people, no less than by the Japanese Government, in the presence of keen dissatisfaction over the unfortunate legislation in California.

附屬書第九十三號　同上ニ對スル米國政府回答覺書

MEMORANDUM.

The Department of State has received the Memorandum of the Japanese Embassy dated January 3, 1921, in regard to the alien land law adopted by the State of California through the vote upon the initiative petition at the general election in November last.

The memorandum refers to the correspondence that took place between the Japanese Embassy and the Department of State in 1913 and 1914, reiterates the objections which the Imperial Government raised against the land law adopted by the Legislature of California in 1913, and states that those objections apply to the new law of 1920 with still greater force and cogency.

It will be recalled that in the correspondence of 1913 and 1914 the Department of State took the position that the question at issue could not be considered as one of legal right accruing to the Japanese Government by virtue of the existing treaty of 1911, inasmuch as all reference to the subject matter in controversy—namely the right of ownership in real property—had been by mutual consent omitted from that treaty, upon the express understanding, embodied in a formal exchange of notes between the Japanese Ambassador and the Secretary of State, that such rights should be regulated and

determined within the territories of either party by its own laws. This Government remains firm in the conviction expressed bv it at that time, that nothing in the treaty affords a basis for the contention that the California land legislation is in violation either of letter or the spirit of any obligations which this Government has assumed towards the government of Japan.

It was furthermore maintained by this Government in the correspondence of 1913 and 1914, that insofar as concerns any legal rights claimed by individual Japanese subjects by virtue of the stipulations of the treaty, there was and is at all times available a recourse to judicial determination of such injuries to private rights and interests as might be contended to have been suffered in consequence of the legislation adopted by the State of California. It was pointed out that such recourse to judicial determination of rights is the procedure contemplated by our laws, and normal to the institutions and traditions of this country, in which it is customary for citizens and aliens alike to seek through the action of the courts the determination and protection of their rights under the constitution, treaties and other laws of the land.

Yet so far as the Department of State has been made aware, no case involving this issue has been adjudicated by any of the higher courts since the original California Land Law of 1913 went into effect. In view of this fact, the Department of State cannot but feel that Japanese subjects resident in California can scarcely have found in the operation of that Statute such occasion for complaint on

the ground of violation of their treaty rights, as had been alleged by the Japanese Government.

Such being the case, this Government is constrained to reiterate the view that, so far as concerns any question of purely legal rights based upon the provisions of the treaty, the judicial determination of those rights should in accordance with general international practice be made a condition precedent to any further discussion of the matter through diplomatic channels.

Pending such a determination of the purely legal aspects of the question, however, the Government of the United States is not unmindful of the feeling with which the Japanese Government and people have viewed the enactment of measures which they esteem to be discriminatory in character; and fully sharing with the Government of Japan consciousness of the supreme importance to be attached to the maintenance of the traditional relations standing between the two nations, this Government is, with like forbearance, envisaging the difficult problem of the aspects presented by the question of the ownership of land in California, and looks hopefully to the possibility of a satisfactory adjustment consistent with the honor and true interests of both nations. To this end, the Department of State has authorized the strictly informal conversations now in progress between Ambassador Morris and Ambassador Shidehara, and will be prepared to consider carefully and sympathetically any sug-

gestions which they may find occasion to submit as a basis for negotiations with a view to meeting the larger questions of policy which have been presented.

附屬書第九十四號　幣原「モリス」協議議事要錄

NOTE OF CONFERENCE BETWEEN AMBASSADOR SHIDEHARA AND AMBASSADOR MORRIS

MEMORANDUM OF PRELIMINARY DISCUSSION BETWEEN AMBASSADOR SHIDEHARA AND AMBASSADOR MORRIS, COVERING QUESTIONS BETWEEN THEIR TWO GOVERNMENTS, WHICH THEY HAVE BEEN AUTHORIZED TO DISCUSS IN INFORMAL CONFERENCES. (SEPTEMBER 15, 1920.)

1. Plans of adjustment if worked out as the result of the proposed informal discussion will not be finally binding upon either Government, it being however understood that both parties will endeavor to reach some solution of the questions, and if reached, to secure the adoption of such solution by their respective Governments.

2. It is proposed to discuss (1) possible means for the removal or prevention of any discriminatory measures against the Japanese, if any, which are now in force or have been or may be proposed, and (2) possible amendments of, or substitutes for, the existing "Gentlemen's Agreement."

NOTE OF CONFERENCE BETWEEN AMBASSADOR SHIDEHARA AND AMBASSADOR MORRIS.

FIRST MEETING—SEPTEMBER 21, 1920.

The Conference was taken up with a discussion of the terms of the treaty of 1911.

The treaty of 1894 contained a clause reading 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 trade, the immigration of laborers, police and public security which are in force or which may hereafter be enacted in either of the two countries." (Article II, last paragraph.)

When the treaty was revised in 1911, the Japanese Government took exception to including this clause in the new treaty and in a memorandum addressed by the Japanese Embassy to the Department of State on October 29, 1910, referred to the control of emigration which had been exercised by the Japanese Government in the following terms:

"The measures which the Imperial Government have enforced for the past two and a half years in regulation of the question of emigration of laborers to the United States have, it is believed, proved entirely satisfactory and far more effective than any prohibition of immigration would have been. Those measures of restraint were undertaken voluntarily,

in order to prevent any dispute or issue between the two countries on the subject of labor immigration, and will be continued, it may be added, so long as the condition of things calls for such continuation."

After some discussion the United States agreed to the deletion of the clause in the treaty, and stated its position in a memorandum from the Department of State to the Japanese Embassy, dated January 23, 1911, as follows:

"The Department of State understands, and proceeds upon the understanding, that the proposal of the Japanese Government made in the above mentioned memorandum is that the clause relating to immigration in the existing treaty be omitted for the reason that the limitation and control which the Imperial Japanese Government has enforced for the past two and a half years in regulation of emigration of laborers to the United States, and which the two Governments have recognized as a proper measure of adjustment under all the circumstances, are to be continued with equal effectiveness during the life of the new treaty, the two Governments when necessary co-operating to this end; the treaty to be made terminable upon six months' notice.

"It is further understood that the Japanese Government will at the time of signature of the treaty make a formal declaration to the above effect, which may in the discretion of the Government of the United States be made public.

"In accepting the proposal as a basis for the settlement of the question of immigration between the two countries, the Government of the United States does so with all neces-

sary reserves and without prejudice to the inherent sovereign right of either country to limit and control immigration to its own domains or possessions."

The Japanese Embassy replied to this on February 8, 1911, stating in general terms that the Imperial Government concurred in the understanding of the proposal relating to the question of immigration set forth in the above mentioned note of January 23 last.

Ambassador Shidehara adds that investigation of the confidential files of the Japanese Embassy indicates that his Government did not at that time fully approve of the wording of the understanding as contained in the Memorandum of the Department of State of January 23, 1911, and, therefore, enclosed the form of declaration which was subsequently agreed upon and signed by Count Uchida. It was also agreed that the declaration should be made public, but that the exchange of notes above referred to should be kept secret and confidential, because the wording of the understandings there mentioned was such that the Japanese Government did not feel justified in approving.

Ambassador Shidehara's understanding of the Japanese Government's attitude in regard to this declaration was given in the following terms:

"The declaration attached to the Treaty and signed by Count Uchida on February 21, 1911, was made with the express understanding orally conveyed to Secretary Knox that it was not a part of the treaty. Ambassador Shidehara expresses his opinion that it is the interpretation of the

Japanese Government that this declaration imposes on that Government a moral obligation to take the measures of restraint mentioned therein, as long as the condition of things calls for such measures, but not a binding legal obligation in the sense that the provisions of the treaty would be."

The Ambassador further pointed out that by the Resolution of the Senate, the advice and consent of the Senate to the ratification of the Treaty "is given with the understanding which is to be made a part of the instrument of ratification, that the Treaty shall not be deemed to repeal or affect any of the provisions of the Act of Congress entitled 'An Act to regulate Immigration of Aliens into the United States', approved February 20, 1907."

In communicating to the Japanese Government this Resolution of the Senate, the Acting Secretary of State observes in his Note of February 25, 1911, that

"Inasmuch as this Act (the Immigration Act of 1907) applies to the immigration of aliens into the United States from all countries and makes no discrimination in favor of any country, it is not perceived that your Government (the Japanese Government) will have any objection to the understanding being recorded in the instrument of ratification."

Relying upon the explanation thus given by the United States Government, of the absence of any discriminating clause against the Japanese subjects in the Immigration Act of 1907, the Japanese Government decided to raise no objection to the above-mentioned understanding being recorded in the instrument of ratification.

The terms of the Gentlemen's Agreement then came up for discussion, and it was decided to hold this phase of the situation for consideration on September 28th.

SECOND MEETING—SEPTEMBER 28, 1920.

The conference was taken up with the terms of the Gentlemen's Agreement and the practice of the Japanese Government thereunder.

The Gentlemen's Agreement was defined as follows:

The present Arrangement covering Immigration between Japan and the United States.

The suggestion of the United States Government for the administrative measures to be enforced by the Japanese Government in regulation of emigration to the United States was communicated to the Japanese Minister for Foreign Affairs, November 26, 1907. Reply thereto was received on the 30th of December, and on the 31st certain counter proposals were advanced by the Tokyo Foreign Office. The Secretary of State responded in a telegram dated January 23, 1908. On the 18th of February, the Japanese Minister for Foreign Affairs replied. Ambassador O'Brien again addressed the Foreign Office on the 21st, and on the 23rd received from Count Hayashi a memorandum which terminated the general discussion of this subject. Further correspondence regarding the status of "settled agriculturists" and "students" has more recently been exchanged between the two Governments.

The six propositions advanced by the Government of the United States contemplated—

(*a*) The issuance by the Japanese Government of pass-

ports of specified character to all Japanese and Koreans leaving their respective countries.

(*b*) The non-issuance by Japan of passports to the continental territory of the United States to laborers or those likely to become laborers.

(*c*) The limitation of the number of passports issued for Hawaii.

(*d*) Recognition by Japan that those persons who while in the United States become laborers, or who enter this country in violation of the regulation governing the issuance of passports, should forfeit their rights under their passports.

(*e*) The registration of Japanese in the United States at Japanese Consulates and subject to American visa.

(*f*) The enforced return, at the expense of the steamship companies or of both Governments, of persons fraudulently entering the United States.

Japan, in the negotiations which followed the presentation of the foregoing propositions, communicated to the American Government her policy and intentions to the following effect:

(*a*) To exercise great care in issuing passports and to warn the applicants therefor of the consequence of making false representation and the fraudulent use of passports.

(*b*) Not to issue passports to laborers, skilled or unskilled, except those who have resided in the United States, or to parents, wives, or children (including adopted children) of such persons.

(*c*) So far as concerns the Hawaiian Islands, which it is

proposed to set aside from the scope of the questions under consideration, it is the present intention of the Imperial Government experimentally to stop all emigration to those islands for some time to come, except in isolated cases of returning emigrants and of the parents, wives, and children of those already resident in the islands.

(*d*) To refuse further applications made by parties who had evaded the limitations placed on the issuance of passports, such refusal to apply also to the families of the parties mentioned.

(*e*) To undertake the establishment of a system of registration; failure to register, however, not to involve the forfeiture of residential rights.

(*f*) Japan had no hope of the success of an attempt to secure domestic legislation calculated to enforce Japanese steamship companies to bear the expenses of returning to Japan emigrants who have violated the conditions under which Japanese may enter the United States.

Other points upon which the correspondence reveals a meeting of the minds of the two Governments and which, therefore, are properly included in what is referred to as the existing arrangement:

The Japanese Government will introduce certain modifications into the passport form now used, including various matters of detail, and will omit no safeguard against fraud.

Passports will be issued by a limited number of specially authorized officials only, all cases involving serious doubt to

be referred directly to the Japanese Foreign Office.

The Japanese Government will continue to exercise a careful and rigorous supervision and restriction over passports granted to "settled agriculturists."

Japanese officials will be instructed to make thorough investigation when application is made by a student, merchant, tourist, or the like, to ascertain whether the applicant is likely to become a laborer, and will enforce a requirement that such person shall either be supplied with adequate means to insure the permanence of his status as student, tourist, etc., or that surety be given therefor.

Passports to laborers previously domiciled in the United States will be issued upon production of a certificate from a Japanese consular officer in the United States, and will be issued to the parents, wives, and children of laborers resident in the United States upon production of such certificate and of a duly certified copy of the official registry of the members of the family in Japan. No local official in Japan will be allowed to issue a passport except upon the presentation of such certificate or certificates, and both consular officer and local official have been instructed to guard against fraud in the exercise of these duties.

All applications for passports as settled agriculturists must pass through the Foreign Office, and detailed reports of consular officers cognizant with the circumstances, as well as certificates of notaries attesting the *bona fides* of the necessary land titles, are required.

The Japanese Government accepts the definition of "laborer," skilled or unskilled, as given in the Executive Order of April 8, 1907. The definition reads:

> "For practical administrative purposes, the term 'laborer,' skilled and unskilled, within the meaning of the Executive Order of March 14, 1907, shall be taken to refer primarily to persons whose work is essentially physical or, at least, manual, as farm laborers, street laborers, factory hands, contractors' men, stable men, freight handlers, stevedores, miners, and the like; and to persons whose work is less physical but still manual, and who may be highly skilled, as carpenters, stonemasons, tile setters, painters, blacksmiths, mechanics, tailors, printers, and the like; but shall not be taken to refer to persons whose work is neither distinctively manual nor mechanical, but rather professional, artistic, mercantile, or clerical, as pharmacists, draftmen, photographers, designers, salesmen, bookkeepers, stenographers, copyists, and the like. The foregoing definition is subject to change, and will not preclude the Secretary of Commerce and Labor from deciding each individual case which comes to him by way of appeal in accordance with the particular facts and circumstances thereof."

If at any time hereafter it should be found desirable to depart from the present policy of prohibition regarding Hawaii, that step shall only be taken after ascertaining

through an American official source the need of labor in the Islands.

Japan has no objection, once a month, to the exchange of statistics covering incoming and outgoing Japanese.

The Japanese Government intends to take measures regarding the emigration of Japanese laborers through foreign territory adjacent to the United States, which in its opinion, will effectively remove all cause for complaint on that account.

Practice of Japanese Government under Gentlemen's Agreement.

The practice of the Japanese Government under the agreement is to issue passports only in accordance with its terms, so far as concerns Continental United States.

Hawaii.

Throughout the discussion between the Japanese Minister for Foreign Affairs and the American Ambassador at Tokyo in 1907-8 on the so-called immigration question, Count Hayashi consistently maintained that the *Hawaiian Islands,* differing historically, economically and geographically from the American mainland, should be set outside the scope of the discussion. In practice, however, the Japanese Government ceased to issue passports to laborers for Hawaii, except returning emigrants and the parents, wives and children of those already resident in the Islands. Such measures of restraint, which were understood to be experimental, still continue in operation.

Philippines.

The question respecting emigration to the *Philippines* has never been brought up for discussion. The Foreign Office at Tokyo, however, has always been exercising great care in issuance of passports to laborers for the Philippines, with a view to restriction the number of emigrants within reasonable limit.

Mexico.

The Imperial Government began as far back as 1903 to exercise control over the emigration of Japanese laborers to Mexico, the control having been made direct and therefore more effective since the conclusion of the so-called "Gentlemen's Agreement" in 1908. Formerly the issuance of passports for Mexico was left to the discretion of the Prefectural governments in individual cases, though they had to observe general rules laid down by the Department of Foreign Affairs. Since the year last mentioned, however, the Department have taken it upon themselves to conduct searching enquiries of each applicant, and to grant a passport only to one who is assured of steady employment in Mexico, and in consequence, is in no way likely to smuggle himself into America. The table that follows gives the number of persons to whom passports for Mexico were issued between 1901 and 1918, both inclusive. The numbers include not only ordinary travellers and merchants, but also returning emigrants to Mexico as well as members of their families, and it will be seen how

careful and painstaking the Imperial Government have been in their control of emigration to Mexico.

Passports Issued for Mexico.

Year	Male	Female	Total
1901	152	—	152
1902	187	—	187
1903	157	2	159
1904	201	—	201
1905	371	3	374
1906	5,223	98	5,321
1907	3,897	48	3,945
1908	16	2	18
1909	11	2	13
1910	33	4	37
1911	54	6	60
1912	58	16	74
1913	90	16	106
1914	93	9	102
1915	47	4	51
1916	66	6	72
1917	85	18	103
1918	184	31	215

In 1919 telegraphic reports reached the Imperial Government from His Majesty's Minister in Mexico stating that several dozens of Japanese had landed at Salina Cruz, Mexico, from the steamer "Anyo-Maru" bound for South America. The information of the arrival in Mexico of Japanese in such

large numbers coming as no small surprise to the Imperial Government, which had been very particular, as already stated, in the matter of control, an investigation was immediately instituted, and it was disclosed that the emigrants in question had been given passports for Peru, which, however, were visaed by the Mexican authorities in Japan, and in virtue of this visa they were enabled to land in Mexico. Upon this discovery, instruction were given to the local authorities of ports of departure to the effect that emigrants for Central and South America, who attempt to leave this country with passports visaed by the authorities of countries other than those for which the passports were issued, are to be regarded, in future, as violations of the Passport Regulations, and as such they must not be permitted to leave. The Foreign Department believe, hence, that no Japanese will gain admittance into Mexico by resorting to subterfuges of the above kind, as long as Mexico herself does not permit the landing of Japanese with passports not bearing visas.

On the other hand, in order to prevent Japanese emigrants in Peru from finding their way into America by way of Mexico, His Majesty's Consul at Lima is under instructions to exercise a proper control over the matter, in conjunction with the American Consul at the same city and also with the Japanese shipping companies. In this latter connection the Imperial Government were some months ago informed that in consequence of the strict observance of the instructions by His Majesty's Consul at Lima, attempts were made by Japanese emigrants to get shipping accommodation at

Iquique by going from Peru to Chile, and they issued last year a strict order to the Japanese Minister to Chile and the Honorary Consul at Iquique not to fail to exercise the requisite control in the matter.

Canada.

Referring to Canada, the so-called "Lemieux Understanding" is in force. That understanding is essentially of the same nature as the Gentlemen's Agreement, and has worked with equal effectiveness in the regulation of emigration to the Dominion. But it leaves to the Japanese authorities a wider latitude of discretion, and the restrictions embodied in its express terms are less stringent than under the Gentlemen's Agreement.

THIRD MEETING—SEPTEMBER 30, 1920.

The conference confined itself to the discussion of alleged defects of the Gentlemen's Agreement. Ambassador Morris in opening the discussion pointed out that he was calling attention to these matters not as implying any bad faith on the part of the Japanese Government, but rather as showing that under the terms of the agreement there were certain weaknesses which had permitted the growth of very definite abuses and in this way defeated the object of the Agreement.

(1) On the question of "picture brides," little need now be said. The action of the Japanese Government, the Ambassador assumed, had taken effect in August in accordance with the terms of the Japanese settlement. Ambassador Morris explained that he had taken occasion to point out to the representative from California that the undertaking of the Japanese Government provided for a total discontinuance of the immigration from Japan of "picture brides," after the date of expiration of passports, the last of which would be issued in February, good for six months. There had evidently been some misunderstanding in California in regard to this. The Ambassador was happy to believe this misunderstanding had been satisfactorily cleared up.

(2) Turning to the right of Japanese aliens resident in California to bring in, under the terms of the Gentlemen's Agreement, members of their family, Ambassador Morris

pointed out that this had so operated as to create a very serious defect in the enforcement of the Agreement.

(*a*) As to parents, he explained what appeared to be, from our records, a well organized plan by which the Japanese alien resident in the United States would first bring over one or both of his parents, and then having established them as alien residents under the terms of the Agreement, would arrange to have the parents call over all of the remaining children.

A representative case of this kind was that of Eihichi Abe, bearer of passport No. 166623, issued at Nagasaki on July 5, 1920, to enable bearer to proceed to Hawaii. He stated that he had a son there, Kaneki Abe by name, at whose invitation he was going to the Islands. He further stated that it was his intention upon his arrival to send for the second son, Shigeru Abe, who he was informed, could not obtain a passport unless he had a parent residing in the Islands.

In this plan probably lies a partial explanation of the increase of Japanese residents on the Pacific Coast, as indicated by recent official figures.

(*b*) Turning to the question of wives generally, Ambassador Morris pointed out that prior to the Gentlemen's Agreement between the years 1899 and 1908, 122,293 Japanese males had been admitted to Continental United States, and only 20,363 females. Since the Agreement went into effect in 1909, until 1919, 33,510 males had been admitted, and 80,532 females, showing conclusively that the exceptions

under the terms of the Agreement had been used to bring in a much larger number of females, whether wives or daughters or mothers, thus adding materially to the number of actual laborers, and defeating the very object of the agreement. These figures might be stated in another form: Before the Agreement, the yearly average of women admitted was 688; since the Agreement, the yearly average has been 2,567.

(*c*) Then turning to the question of children, also made an exception in the Gentlemen's Agreement, this too has lent itself to another form of abuse. The records of the Department would indicate that there has grown up a system of adoption whereby laborers in no way connected with the family of the alien resident were adopted by the aliens, and then called into Continental United States as children.

The Ambassador cited the cases of some thirteen adopted sons who had arrived at Seattle in March, last. Seven of these young men were destined to adoptive parents who had children of their own. All of the adopted persons had parents with whom they had been living. They had obviously been adopted for the purpose of bringing them to the United States.

The Ambassador then referred to a statement said to have appeared in the "SHINSEKAI" of May 23, 1920, quoting Vice Consul Tanaka of San Francisco as saying that between April 1 and May 24, of this year he had issued 80 certificates for *Yoshi*.

The Ambassador further cited cases where our immigra-

tion authorities had learned of adopted children who had, subsequent to arrival, cancelled their adoption and sent for their blood parents. Two cases were noted: that of Korasuke Kogawa, called over by his son, the latter having arrived in this country as the adopted son of one Tokutaro Murakami, (he was excluded as an illiterate under the general immigration laws); and that of Koe Miyagusuku, who had come to the United States at the invitation of his son, Yukishiko Miyagusuku, the latter having originally arrived as the adopted son of one Uichi Fusei. Koe Miyagusuku subsequently sent for two other sons, Yukioto and Yukaihara Miyagusuku.

After quoting these typical cases as illustrating abuses, Ambassador Morris emphasized the necessity of some modification, or amendment which would clearly prevent their continuance in the future. His own personal view was that we would have to consider seriously some general blanket provision that would definitely preclude any further immigration into the United States, although we recognized that such a provision would be of necessity a hardship in certain cases on Japanese aliens now resident here.

(*d*) In the matter of settled agriculturists, Ambassador Morris suggested that his study of the statistics indicated that this class had not figured largely in the increase of Japanese in the United States.

In regard to surreptitious entries, Ambassador Morris stated that it was obvious that no exact data was available. That there have been a number of such is evidenced by the

fact that last February some seventeen "picture brides" arrived at San Francisco destined to husbands who had no passports. These men had probably received certificates from the Japanese Consular authorities because they had been in the United States for five years. But the fact remained that their original entry had probably been surreptitious.

The Ambassador stated that he could not escape the conclusion that the most serious defect was the inability of the United States to enforce the terms of the Gentlemen's Agreement. Japan was in the position of having adopted a set of regulations regarding emigration to the United States for our benefits, while the United States was in the position of having surrendered control over immigration to our shores. We had no power to deal with evasions of the Agreement on the part of individuals, while Japan had no control over the individual violators of her regulations after the emigrant had left her ports. It was essential that some remedy be found for this defect. There was no question of Japan's good faith, as all the evidence which the Ambassador had received indicated that the Japanese Government had lived up to the letter of its undertakings. But there was no means of exercising control over the individual who had eluded the Japanese authorities.

Ambassador Shidehara remarked that the weakness which the Gentlemen's Agreement was generally regarded to contain appeared to be much exaggerated, if not entirely unfounded. He proceeded to offer the following observations:

(1) The question of "picture brides" was now admit-

tedly a matter of past history. It would, however, be pertinent to recall that in the correspondence which passed between the State Department and the Japanese Embassy in 1917, various phases of the question had been fully discussed, and that the United States Government had finally recognized the perfect legality of that form of marriage. In the note of the Secretary of Labor to the Secretary of State under date of August 20, 1917, copy of which was enclosed in Secretary Lansing's communication to the Japanese Ambassador dated August 21, 1917, the position of the United States Government on the subject was expressed in the following terms:

> "It is especially gratifying that the full and free discussion thereof (of the question of picture brides) had produced a situation under which the nomenclature that has grow 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 had led to their full recognition by the United States Government, and 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."

The decision subsequently taken by the Japanese Government, and communicated to the State Department in December, 1919, to refuse passports to "picture brides" proceeding to

the Continental United States, implied by no means that the practice formerly adopted by granting passports to such emigrants was any evasion either of the letter or of the spirit of the terms of the Gentlemen's Agreement.

(2) The existing system enabling Japanese residents in the United States to bring in members of their family was, Ambassador Shidehara understood, due to the considerations that it was essential for a sound social structure and for public morals to permit the grouping of family circle and to discourage a nomadic life in which immigrants could hardly be excepted to take interest in the general welfare of the community.

(*a*) As to parents, it was theoretically conceivable that attempts might have been made to evade the terms of the Gentlemen's Agreement through the indirect process pointed out in Ambassador Morris' remarks. Having, however, regard to great care with which application for passports to the United States were scrutinized, Ambassador Shidehara doubted whether the underhand proceedings in question could have practically succeeded to any large extent. He did not presume, for instance, that Eihichi Abe, to whose case reference was made in Ambassador Morris' statement, had actually been enable to bring in to Hawaii his remaining children.

(*b*) With regard to the question of wives, Ambassador Shidehara questioned if the figures given by Ambassador Morris were not misquoted. The note of the Acting Secretary of State to Senator Phelan under date of August 28, 1919,

quoted in Governor Stephen's recent communication to Secretary Colby stated that "with regard to the number of Japanese immigrants admitted to the mainland and Hawaii prior to and since the agreement, it is interesting to note that during the ten years immediately preceding the agreement, 142,656 Japanese were admitted and for the eleven years immediately following the agreement 80,532 were admitted." This latter figure, 80,532, which apparently included Hawaii, and also males, exactly corresponded with the figure mentioned by Ambassador Morris as representing only the female immigration into the American mainland. It should further be noted that the figures did not represent the net increase of Japanese in American territory, since no account was taken in them of the large number of departures.

In any case, it was clear, Ambassador Shidehara remarked, that the volume of immigration of wives was largely due to the system of "picture brides." With the decision, recently adopted, of prohibiting "picture brides" from proceeding to the Continental United States, it was confidently expected that arrivals of wives would soon show a sudden and marked decrease. Ambassador Shidehara took this occasion to observe that the cases in which wives were brought in could be divided into two classes. In the first place, there were cases in which immigrants at the time of departure for the United States had left their wives in Japan, and, after having settled down in this country, would desire to be joined by their wives. Should such desire be refused, the couple would have to live permanently in separation, and it

was evident that the refusal of passports in these cases would lead either to the enforced return of the men to Japan, or to the breach of the relations of a wedded life. In the second place, unmarried men having established themselves in the United States might seek to return to Japan for a short time to get married there, and then to come back again to this country with their brides. "If in such cases, passports were to be refused to the brides, the men would have practically to abandon the fixed means of livelihood which they had acquired in the United States after some years of labor, and to leave for Japan for good, unless they could find their partners of life among the limited number of marriageable Japanese women staying in this country, it being understood that the California law prohibits intermarriage. All these requirements would, in the opinion of Ambassador Shidehara, operate to the immense hardship of the parties. It might be added, he continued, that the Japanese Government always made it a practice to refuse passports to wives, unless it could be shown that the men desiring to bring in their wives had sufficiently established themselves in definite and durable occupations to be able to support their families.

(*c*) Referring to the question of adopted children, the Japanese Government had hitherto, in conformity with Japanese law, accorded the same treatment to this class of children as to children related by blood. If such practice was found to give rise to abuses, Ambassador Shidehara personally thought it practicable to discover a more effective means of control. He also explained that the statement of Vice-

Consul Tanaka of San Francisco which appeared in the SHINSEKAI of May 25, 1920, was misquoted in Ambassador Morris' remarks. In that Japanese paper, Mr. Tanaka stated that during a period from April of last year to May of the present year, about 80 certificates of arrival of adopted children were issued by the Japanese Consulate-General at San Francisco. The figure 80 included a period extending for 13 months. The report received by Ambassador Morris, it seemed, erroneously quoted this figure as for only two months April and May of this year.

(*d*) As regards settled agriculturists, the Japanese Government was enforcing the terms of the Gentlemen's Agreement with such stringency that practically it had ceased to issue passports to any of the men claiming to come under this category. Ambassador Shidehara defined "settled agriculturists" as follows: Farmers, owing or having an interest or share in the produce or crops of agricultural lands.

With reference to Ambassador Morris' remarks pointing out the absence of means by which the terms of the Gentlemen's Agreement could be legally enforced in the United States, Ambassador Shidehara observed that questions might arise when attempts are made to enter the United States

(1) without passports,

(2) with passports, which, being obtained or produced through fraudulent practice, are legally null and void, or

(3) with passports which are legally valid, but the issuance of which, in the opinion of the American authorities,

is regarded to be inconsistent with the terms of the Gentlemen's Agreement.

In the first two cases, legal remedy exists: Persons making such attempts may be deported in due process of law.

In cases of the last mentioned class, holders of the passports in question are not subject to deportation, unless they are held to be inadmissible under the provisions of the Immigration Act of the United States. The American Government, however, may properly make, and has actually made, representation to the Japanese Government in each of these cases, calling attention to the terms of the Gentlemen's Agreement, which in its opinion, are apparently disregarded. Adjustment of the question can then be easily reached through diplomatic process, and if the complaints of the American Government are established, the Japanese Government will immediately thereafter correct the proceedings formerly adopted. Experience shows that the cases in which the proceedings of the Japanese Government under the Gentlemen's Agreement have been called in question are very rare.

FOURTH MEETING—OCTOBER 5, 1920.

The Conference was taken up with a discussion of the Gentlemen's Agreement and proposed remedies of its alleged defects.

Referring to the exclusion of Hawaii and the Philippines from the terms of the Gentlemen's Agreement, Ambassador Morris stated that he presumed that Japan would be willing to include these regions in any new arrangement.

To this Ambassador Shidehara replied:

(1) As to Hawaii—

Under the practice which had obtained in Hawaii for a long time preceding the Gentlemen's Agreement, the Planters Association informed the Japanese Consul-General from time to time of the actual conditions of labor on various plantations, and the Japanese Consul-General, taking note of such information, communicated to his Government the estimated number of laborers needed in the Islands. The Japanese Government thereupon proceeded to authorize immigration of laborers to Hawaii only up to the limit of the number indicated in the Consular reports. American labor has never been employed in the sugar plantations which predominate the industrial activities of the Islands, and consequently there has never been such competition of labor between Japanese and Americans in Hawaii as that of which complaints have been raised in California.

In view of this situation Hawaii was excluded from the application of the terms of the Gentlemen's Agreement. If the Japanese Government has felt it wise, as it has actually adopted it as a practice, to enforce the same measures of restraint in relation to Hawaii as those enforced respecting the American mainland, it was primarily due to the apprehension that with the increase in the number of Japanese laboring class in the Islands, some of the immigrants might eventually find their way to the continental United States in evasion of the Gentlemen's Agreement.

(2) As to the Philippines, he desired to have this territory left out of the discussion altogether, as he felt that conditions there were so different from those obtaining in the United States that it would be difficult to consider the islands in conversations that related to America.

Before leaving the general subject of the Gentlemen's Agreement, Ambassador Morris called Mr. Peters, Solicitor of the Bureau of Immigration, into the conference and pointed out to him the apparent discrepancies in the figures given in the report of the Commissioner of Immigration, as well as various other discrepancies appearing in statistics of Japanese immigration as given in the report and other statements. Mr. Peters promised to report later on these details, and in the meantime it was agreed that he should have prepared a chart giving all the statistics from 1899 to 1919 covering arrivals and departures of Japanese in Continental United States and Hawaii.

Proposed remedies were then taken up.

In regard to the Gulick Plan of proportional immigration, Ambassador Shidehara remarked that he considered that plan as a question of domestic legislation, which de did not feel justified in discussing at present.

In regard to the so-called California Plan, which provided for mutual restrictions in Japan and the United States, Ambassador Shidehara stated that he did not believe that his government would seriously consider it.

In regard to an exchange of notes or treaty, Ambassador Shidehara made the following observations:

A treaty by which a particular country is legally obligated to restrict emigration of its nationals of laboring class to a foreign land is perhaps without precedent in the history of international relations. It will be extremely distasteful and irritating to the people of the country to be so obligated, more especially as it involves the question of national or racial discrimination.

The Japanese Government, however, has not been unmindful of the difficulties under which the United States has been laboring in the matter of immigration. It was, indeed, due to this appreciation of the situation in the United States that the Japanese has adopted a set of regulations now popularly known as the Gentlemen's Agreement. Such measures of self-restraint are far less hurtful to Japan's national susceptibilities than restrictions which would be demanded of her by a foreign power.

The Japanese Government believes that what can be achieved by any conventional engagement for the limitation

and control of Japanese emigration to the United States can be equally achieved by the existing system of Gentlemen's Agreement. The sense of moral obligation which Japan feels in enforcing these self-denying regulations is quite as strong as any legal obligation which she would have undertaken by a treaty. Nor, in her earnest desire to remove causes of embarrassment to the United States, has she confined herself to the consideration of legal technicality which might have properly justified the Japanese Government in authorizing emigration under the terms of the Gentlemen's Agreement. Sincerity of Japan's purpose in this respect will be proved by the action which she did not fail to take for the prohibition of " picture brides " from proceeding to the Continental United States, notwithstanding the perfect legality of that form of marriage, which had been freely recognized by the United States Government.

The Japanese Ambassador is ready to re-examine the terms of the Gentlemen's Agreement, and to recommend to his Government adoption of such amendments as may be found possible to meet the requirements of the actual situation, it being understood that, on the other hand, efficient provisions are made to ensure just and equitable treatment to Japanese residents in the United States. But he can not bring himself to the conclusion that any useful purpose will be served by incorporating the terms of the Gentlemen's Agreement into treaty stipulations, in disregard of keen sensibilities of the Japanese people, while the essential object which Japan seeks to attain in the pending discussion is nothing more

than to secure removal of invidious discrimination to which her law-abiding nationals are or may be subjected in the United States in the enjoyment and exercise of their civil rights.

So far as concerns the inclusion of Japan in Section 3 of the Immigration Act of 1917, Ambassador Shidehara remarked:

Any Congressional action looking to the exclusion of Japanese laborers, either by specific reference, or by inclusion of Japan within the geographical zone of inadmissible inhabitants defined in Section 3 of the Immigration Act of 1917, will naturally exonerate the Japanese Government of all moral obligation to enforce the terms of the Gentlemen's Agreement. It will also necessitate the United States Government to abrogate the existing Commercial Treaty of 1911, with which it is apparently irreconcilable. It will be a manifest act of discrimination against the Japanese, and the extreme gravity of the consequences which it would inevitably produce upon the relations between the two countries can not be over-estimated.

In any case, such a measure will not serve to compose the difficulties which it is the aim of the present discussion to eliminate.

There remained for subsequent discussion: A re-statement of the Gentlemen's Agreement in concise terms.

FIFTH MEETING—OCTOBER 12, 1920.

In opening the conference, Ambassador Morris stated that he had investigated the figures for the number of Japanese immigrant women entering the United States since the Gentlemen's Agreement, and found that Ambassador Shidehara's doubt in regard to the accuracy of the figures which were taken from the report of the Commissioner of Immigration for 1919 was fully confirmed upon detailed investigation made at the Bureau of Immigration. It now appears that the number of women mentioned in the Commissioner's report, viz., 80,532, did not represent the number of women entering Hawaii and Continental United States from 1909 to 1919, but represented the total of men and women immigrants during the period, and it was evidently a clerical error made in the Commissioner's report which gave that total as applying wholly to women. The true figures are that since the Gentlemen's Agreement, the number of Japanese immigrant women entering Continental United States and Hawaii was 47,022, and the number of men during that period 33,510, making a total of 80,532. The Ambassador stated further that this correction of figures did not change the force of the argument that the Ambassador had submitted for Baron Shidehara's consideration. Ambassador Morris desired again to point out, in regard to immigrants, that the number of women in so far as our records show for the 10 years preceding the date of the Gentlemen's Agreement was 20,363,

and the number of men during the same period was 122,363. Subsequent to the Agreement, the number of women was as above stated, 47,022, as compared with 33,510 men.

Ambassador Morris further called Baron Shidehara's attention to the significance of the following: In so far as our records show in the seven years preceding the Gentlemen's Agreement, the total immigration of men and women to the mainland of the United States was 51,340, and during the eleven years subsequent to the Agreement, the total number of alien immigrants admitted to the mainland of the United States was 51,370.

It would thus appear that in spite of the Gentlemen's Agreement the actual number of alien immigrants still settling in Continental United States has not greatly decreased. This is striking testimony to the failure of the Gentlemen's Agreement to effect the purpose for which it was adopted.

Ambassador Morris then asked how far Baron Shidehara felt he could go in recommending further restrictions on emigration from Japan to the United States.

Ambassador Shidehara replied that he would be willing to recommend to his Government amendments of the terms of the existing Gentlemen's Agreement to the effect that no more passports be issued to:

(1) Parents;

(2) Wives, except (*a*) wives of the men who were married before emigrating to the United States, and (*b*) wives of those who are no longer laborers, and who, after

having settled down in the United States, returned temporarily to Japan and were married there;

(3) Adopted children, except only one child adopted by a couple both of whom are aliens having no children of their own after a period of say ten years of married life, it being understood that such adopted child is to be sent back to Japan if after the arrival of that child in the United States the adoption is cancelled;

(4) Settled agriculturists.

Ambassador Shidehara repeated his desire to have it well understood that any modifications which his Government might be induced to make in the terms of features of the Gentlemen's Agreement were subject to the condition that the United States, on its part, be ready to adopt and carry into effect efficient measures for ensuring realization of one of the essential objects sought by the present conference, namely, to remove and to prevent all discriminatory treatment against the Japanese, which is actually in force or may hereafter be proposed in any part of the American Union respecting the enjoyment or exercise of civil rights.

In regard to Hawaii, Ambassador Shidehara called attention to wide differences in the labor conditions between Hawaii and the American mainland, as he had had occasion to point out in the previous meetings of the conference. He expressed a decided disinclination to recommend a change in the present status of emigration from Japan to those Islands.

Ambassador Morris in reply to these suggestions expressed the disappointment that Ambassador Shidehara did

not feel justified in going considerably further in his recommendations. He had hoped that Ambassador Shidehara's keen appreciation of the perils involved in any further Japanese immigration under present conditions would justify him in concluding that the time had come when our Governments could agree on a plan of total exclusion until such time as we could test out the assimilability of the one hundred fifty thousand or more Japanese already here. Ambassador Morris recognized that there was a hardship to those Japanese men now unmarried, who would, under a total exclusion, be prevented from marrying women of their own age in Japan and bringing them to their homes in the United States, but pointed out that a large number of Japanese girls now growing into womanhood would greatly mitigate this hardship, and make it practically much less severe than it appeared. He recognized that this might result in the withdrawal from California of a number of the immigrants and their return to Japan for permanent residence, but felt that this very movement would do much to relieve the tense feeling now existing on the Pacific Coast, and would in the larger view be a distinct advantage to the relations between our Governments.

Ambassador Morris also expressed the hope that the question of adopted children might be eliminated altogether. He felt that the plan suggested by Ambassador Shidehara would be cumbersome and difficult, and its advantages far out of proportion to the feeling which it might create. It was always possible for Japanese married couples, without children, to adopt a child among those who were born in the

United States. While he recognized that this might not in some instances meet the conventions and customs of Japanese life, and force adoption outside the circle of the family, yet such instances, he believed, would be rare, and would not justify the creation of a somewhat cumbersome provision to cover exceptional cases. Moreover, an exception of this character would tend to perpetuate separate Japanese communities and their isolation from American life.

Summing up, Ambassador Morris pointed out that it was his clear understanding that in the years 1906 and 1907, the Pacific Coast was urging total exclusion of Japanese laborers, and that the United States Government and the Japanese Government both recognized the necessity for such exclusion, and our Governments were then naturally desirous of reaching some arrangement that would be acceptable to the Japanese Government, and that as a result the Gentlemen's Agreement was proposed and constructed for the purpose of accomplishing this object of total exclusion of laborers. For the reason already outlined, the agreement had not accomplished its object. The official records of the Commissioner of Immigration segregated by occupations immigrants admitted at the open ports each year. These records show that each year since 1908, we have admitted from Japan a large number of laborers, sometimes 3,000 and over, classed variously as "laborers," "farm laborers," etc., with extra possibilities under the title "unclassified." Some of these undoubtedly were "former residents," and entitled to reentrance. It may be assumed that

the balance were children, (including adopted children), brothers, and fathers of those already here and admitted in one way or another under the family proviso of the understanding. It would, therefore, seem necessary in order now to assure the total exclusion of laborers which both Governments have for a long time intended, that we should so modify the terms of the Gentlemen's Agreement as to preclude with certainty in the future the immigration of all Japanese laborers to the United States.

Ambassador Morris further pointed out that we had to consider also some correction of what he deemed to be the vital defect of the Gentlemen's Agreement, namely, the failure to provide any means for the enforcement of its provisions at the ports of the United States. He would, therefore, suggest for the consideration of Ambassador Shidehara the plan of adding to the amended Gentlemen's Agreement a request from the Japanese Government that the United States Government take such measures as might be deemed necessary for the deportation from American territory of persons entering, or making an attempt to enter, the United States in violation of the Japanese regulations as set forth in the amended Agreement. Ambassador Morris pointed out that if such a request were accepted by the Government of the United States, it could probably only be carried out by Federal legislation providing for administrative measures.

In conclusion, Ambassador Morris expressed the hope that Baron Shidehara would see his way clear on further consideration not only to recommending the including of

Hawaii definitely within the terms of such an amended Gentlemen's Agreement, but would also recommend a statement by the Japanese Government of its willingness, upon request, to apply similar regulations covering immigration to the Philippines.

Ambassador Shidehara observed that he felt sure that the stoppage of "picture brides" would have the result of materially decreasing the number of female immigrants to which reference was made in Ambassador Morris' remarks.

Moreover, the figures given by Ambassador Morris, showing that the total number of Japanese immigrants admitted to the American mainland for the eleven years subsequent to the adoption of the Gentlemen's Agreement nearly balanced the corresponding number for the seven years preceding it, could hardly be, in the estimation of Ambassador Shidehara, taken as testimony to the failure of the Gentlemen's Agreement. It was, indeed, only within a few years preceding the Agreement that the volume of Japanese immigration assumed any serious proportion. In 1907, for instance, the number of Japanese immigrants admitted to the Continental United States had swollen to 12,888. It suddenly dropped to 1,596 in 1909, when the Agreement came into full effect. If no measures of restraint had been enforced, the total number for the eleven years from 1909 to 1919, would have undoubtedly reached several hundreds of thousands, instead of 51,370 as quoted by Ambassador Morris. It was obviously the Gentlemen's Agreement that had effectively stemmed such tide. Viewed in this light, the figures given

by Ambassador Morris would seem to testify to the fair success, and not any failure of the present arrangement.

Ambassador Shidehara further pointed out that those figures did not represent the net increase of Japanese immigrants in the United States. It was well known that a large number of such immigrants returned to Japan to spend some months there, and when they come back to their homes in the United States, they were counted in the reports of the United States Immigration authorities as immigrants admitted to this country.

Ambassador Shidehara proceeded to discuss the amendments, which he had suggested, in the terms of the existing Gentlemen's Agreement. He explained that the exclusion of wives of those who were married before emigrating to the United States would involve the breach of conjugal life which it would be at once unjust and inhumane for any Government to disregard, while actual cases of such wives being brought in would be practically of a very limited number. With regard to the suggested admission to this country of wives of those who are no longer laborers, Ambassador Shidehara presumed that the question would not give rise to any difficulty, since the present discussion referred essentially to the immigration of laboring class.

In reply to Ambassador Morris' remarks on the question of adopted children, Ambassador Shidehara explained that under the Japanese custom, these children were usually chosen from among relatives of the adoptive parents, and that it would be hardly practicable for a childless couple to arrange

the adoption of a child residing in the United States who was not related to them in any way. Ambassador Shidehara did not believe that the number of adopted children hitherto admitted to the United States had figured largely. It would be further reduced, if his suggestion were accepted, and the exclusion of these children would cause an unnecessary hardship to a couple having no children of their own.

He entirely agreed with Ambassador Morris in the importance of a plan by which the assimilability of Japanese already in the United States could be tested. No occasion for such test had yet been afforded to them. On the contrary, discriminatory treatment enforced against them in various ways had tended to retard their natural process of assimilation. Ambassador Shidehara was, however, of the opinion that an absolute prohibition of all Japanese emigration to the United States was neither necessary nor desirable for the application of the test of assimilability. A few exceptions called for by the sense of humanity and of fairness might well be made without prejudice to the essential object for which the present conference had been called.

Nor was Ambassador Shidehara persuaded that the discussion between the American and Japanese Governments in 1907 and 1908 on the problem of immigration had had in view such a sweeping arrangement as the total exclusion of Japanese laborers. From the early stage of that discussion, it had been well understood that the Japanese Government would continue to issue passports to laborers formerly resident in American territory and the parents, wives and children

of laborers already here, as well as to settled agriculturists. Such position of the Japanese Government had never been controverted by the Government of the United States in the course of the negotiations in 1907 and 1908.

Finally, Ambassador Shidehara would be willing to consider the suggested plan of Ambassador Morris to add to an amended Gentlemen's Agreement a request from the Japanese Government that the United States Government take such measures as might be deemed necessary for the deportation from American territory of persons entering, or making an attempt to enter, the United States in violation of Japanese regulations set forth in the amended Agreement.

In replying to these comments, Ambassador Morris again emphasized the object they were both seeking which was a satisfactory arrangement which would result in the total cessation of the immigration of Japanese laborers to the United States. He pointed out that one experience of the last ten years had demonstrated the dangers inherent in allowing any exceptions which, in practice, were often used in a manner never intended. Just because we were endeavoring to creat favorable conditions to test the assimilability of Japanese already in the United States, it was vital that we should guard this test by provisions which should guarantee that the growth of the Japanese colony by accessions from the outside should cease absolutely and entirely. It was true that this policy would conflict with the convenience or wishes of individual Japanese aliens now resident in the United States,

and might even deprive some of the opportunity to marry. But the choice offered in these cases was a simple one. They would have to choose between the advantage of residence in the United States under the limitations which a necessary policy imposed upon them, and the advantages which they might attain by returning to their native land. This is a choice which in one form or other faces all those who elect to reside in an alien land. It was the larger issue which we must keep in mind. Ambassador Morris felt that he should once more state quite frankly that the object he sought to attain was not a material decrease of the number of immigrants (male or female), but a complete discontinuance of immigrant laborers and he sought this only because he was convinced that anything less would not remedy the conditions as they now exist.

In conclusion, he expressed appreciation of the willingness of Ambassador Shidehara to consider the method suggested for enforcing the provisions of an amended Gentlemen's Agreement and hoped that Ambassador Shidehara would give further consideration to the character and extent of the amendments which Ambassador Morris felt the conditions on the Pacific Coast imperatively called for. In the meantime it was agreed that the next conference should proceed to the discussion of the status, actions and claims of Japanese aliens now resident in California.

SIXTH AND SEVENTH MEETING— OCTOBER 19 AND 21, 1920.

The conferences proceeded as arranged at the previous meeting to consider the general subject of the status, actions and claims of the Japanese aliens resident in the United States, and the status of Japanese aliens as provided by the terms of the existing Treaty.

The Treaty of February 21, 1911, provides in Article I as follows:

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

"They shall not be compelled, under any pretext whatever, to pay any charges or taxes other or higher than those that are or may be paid by native citizens or subjects.

"The citizens or subjects of each of the High Contracting Parties shall receive, in the territories of the other, the most constant protection and security for their

persons and property, and shall enjoy in this respect the same rights and privileges as are or may be granted to native citizens or subjects, on their submitting themselves to the conditions imposed upon the native citizens or subjects.

"They shall, however, be exempt in the territories of the other from compulsory military service either on land or sea, in the regular forces, or in the national guard, or in the militia; from all contributions imposed in lieu of personal service, and from all forced loans or military exactions or contributions."

Ambassador Morris pointed out that we had already discussed the relation of the Gentlemen's Agreement to that provision which relates to rights of Japanese aliens to enter, travel and reside in the territory of the United States, it now became necessary to examine more carefully the provision which grants the Japanese aliens the right "to own or lease or occupy houses, manufactories, warehouses and shops" and "to lease land for residential and commercial purposes." Ambassador Morris stated that he personally concurred in the almost unanimous judgment of those who had studied the provisions of the Treaty that by its terms it limited the right to own or lease land in such a way as to give by treaty to Japanese aliens resident in any state of the Union no right to own or lease agricultural lands. He did not believe that the phrase "commercial purposes" could by any forced construction be interpreted as including farms or other agricultural pursuits. He assumed, therefore, that the Japanese

Government would not make any claim that there would be a breach of any treaty stipulations should any state pass legislation either limiting or totally prohibiting the ownership or leasing of agricultural land by Japanese aliens.

Ambassador Morris further stated that he examined with some care such memoranda as were available covering the discussion of this point at the time the Treaty of 1911 was being negotiated. It would appear that on January 23, 1911, the Department of State sent to the Japanese Embassy a note including a memorandum of the points which the Department deemed it wise to include in the new treaty then being considered. Of these points submitted, number four referred to land ownership, and suggested that the limited right of ownership of land by foreigners or foreign corporations provided for by recent session of the Imperial Japanese Diet should be granted to American citizens and corporations in turn for corresponding rights which are granted foreigners by law in the various States. After referring to the particular question of real property in Korea, it continued

> "should the law of land ownership referred to eventually be extended to Korea, such extension of privilege shall apply to citizens of the United States equally with those of any other country."

Ambassador Morris stated that this memorandum would clearly indicate that the Government of the United States had in mind at that time a treaty provision which would provide for reciprocal rights to the citizens of both countries in regard to the rights to own or lease land. Apparently this

suggestion was not agreeable to the Japanese Government because it would appear that on February 21, 1911, just two days before the Treaty was finally completed and executed, the Japanese Ambassador, Count Uchida, now Minister of Foreign Affairs, replied as follows:

> "In reply to your inquiry about land ownership in Japan and Korea, I have the honor under instructions of the Imperial Government to state that land ownership in Japan will be regulated by the law of the country, and foreigners and foreign corporations who comply with the terms of the provisions of the law will acquire the right of ownership of land. In return for the rights of land ownership which are granted to Japanese by laws of the various states of the United States, the Imperial Government will by liberal interpretation of the law be prepared to grant land ownership to American citizens from all the states, reserving for the future, however, the right of maintaining the condition of reciprocity with respect to the separate states."

From this answer it would appear that the Japanese Government at that time expected that the law already passed by the Imperial Japanese Diet of 1910 regulating the ownership of land by foreigners in Japan, would become effective, and might then be used as a means of granting reciprocal rights to citizens of the United States. Ambassador Morris expressed his understanding that in point of fact the law referred to in this correspondence did not become effective, and is not at the present time effective in Japan. It would,

therefore, appear not only is there not now under the Treaty any provisions granting to Japanese aliens in the United States a right to own or lease agricultural land, but that the absence of this provision was the result of action by the Imperial Japanese Government and not by any action of the Government of the United States. Ambassador Morris then quoted as sustaining the interpretation which he thus submitted, and which he had reached by independent investigation, the note of the Department of State addressed to the Japanese Ambassador under date of July 16, 1913, which sums up to the effect of the treaty provision in the following words:

"This treaty was based upon a draft presented by the Imperial Government. In Article I of this draft there is found the following clause:

'3. They (the citizens or subjects of the contracting parties) shall be permitted to own or hire and occupy the houses, manufactories, warehouses, shops, and premises which may be necessary for them, and to lease land for residential, commercial, industrial, manufacturing and other lawful purposes.'

"It will be observed that in this clause, which was intended to deal with the subject of real property, there is no reference to the ownership of land. The reason of this omission is understood to be that the Imperial Government desired to avoid treaty engagements concerning the ownership of land by foreigners and to regulate the matter wholly by domestic legislation.

"In the treaty as signed the rights of the citizens and subjects of the contracting parties with reference to real property were specifically dealt with (Article I) in the stipulation that they should have liberty 'to own or lease and occupy houses, manufactories, warehouses, and shops' and 'to lease land for residential and commercial purposes.' It thus appears that the reciprocal right to lease land was confined to 'residential and commercial purposes,' and that the phrases 'industrial' and 'other lawful purposes,' which would have included the leasing of agricultural lands, were omitted.

"The question of the ownership of land was in pursuance of the desire of the Japanese Government, dealt with by an exchange of notes in which it was acknowledged and agreed that this question should be regulated in each country by the local law, and that the law applicable in the United States in this regard was that of the respective States. This clearly appears from the note of Baron Uchida to Mr. Knox of February 21, 1911, in which, in reply to an inquiry of the latter on the subject, Baron Uchida said:

'In return for the rights of land ownership which are granted Japanese by the laws of the various States of the United States (of which, I may observe, there are now about 30) the Imperial Government will by liberal interpretation of the law be prepared to grant land ownership to *American citizens from all the States, reserving for the future, however, the right of main-*

taining the condition of reciprocity with respect to the separate States.'

"In quoting the foregoing passage I have italicized the last clause for the purpose of calling special attention to the fact that the contracting parties distinctly understood that, in conformity with the express declaration of the Imperial Japanese Ambassador, the right was reserved to maintain as to land ownership the condition of reciprocity in the sense that citizens of the United States, coming from States in which Japanese might not be permitted to own land, were to be excluded from the reciprocal privilege in Japan.

"From what has been pointed out it appears to result, first, that the California statute, in extending to aliens not eligible to citizenship of the United States the right to lease lands in that State for agricultural purposes for a term not exceeding three years, may be held to go beyond the measure of privilege established in the treaty, which does not grant the right to lease agricultural lands at all; and, secondly, that, in so far as the statute may abridge the right of such aliens to own lands within the State the right has been reserved by the Imperial Government to act upon the principle of exact reciprocity with respect to citizens of the individual State. In a word, the measure of privilege and the measure of satisfaction for its denial were perfectly understood and accepted."

It would thus appear, concluded Ambassador Morris, that

at the present time Japanese aliens resident in the United States are in no way deprived of any of the civil rights which have been guaranteed to them under the terms of the Treaty of 1911.

Ambassador Shidehara in reply admitted that the existing Treaty between Japan and the United States evidently contained no specific guarantee concerning the right of ownership of land. As regards the question of leasehold, he was of the opinion that the phrase "to lease land for residential and commercial purposes" appearing in Article I of the Treaty could not be construed as excluding the right "to lease agricultural lands," to which reference was made in Ambassador Morris' observations. Agricultural lands might legally be leased for commercial purposes, in anticipation of commercial gains to be derived through subleasing or otherwise. In such cases, the leasing of agricultural lands seemed to be protected by the Treaty. Similarly, the right of the Japanese to own stocks in any company, association or corporation liable to become possessed of real property or any interest therein in the United States was apparently guaranteed under the parity engagement on the subject of trade contained in Article I, and under the most favored nation stipulations in all that concerns commerce appearing in Article XIV of the Treaty.

Ambassador Shidehara also suggested that any legislation limiting or prohibiting the right of the Japanese to own or lease agricultural lands, in denial of "the most constant protection" for their property would be considered irreconsilable with the terms of the third paragraph of Article I of the

Treaty. Further objections based on the grounds of strict legal right might well be raised as much against the pending initiative measure in California as against the existing Alien Land Law of 1913.

But, what was of still more serious moment, these anti-Japanese enactments were calculated to deprive the Japanese subjects of the right of land tenure, while freely continuing the right, not only in favor of the subjects or citizens of all the other Powers with which the United States maintained reciprocal treaty relations, but also in favor of nationals of many non-treaty Powers. Such a discrimination was decidedly at variance with the spirit and intent of the Japanese-American Treaty and with the generally accepted percepts governing and regulating the intercourse between friendly nations.

Turning to Ambassador Morris' remarks with regard to the negotiations connected with the conclusion of the Treaty of 1911, Ambassador Shidehara desired to point out that the absence of specific reference in the Treaty to the question of alien land-ownership could not be interpreted as showing that it had been reserved to each of the parties of the Treaty to discriminate against nationals of the other in the matter of such rights. He was satisfied, upon examination of the records of the negotiations leading up to that Treaty, that neither party had then contemplated the possibility of such discriminatory measures as were now engaging the attention of the two Governments.

On this subject, Ambassador Morris submitted for

Ambassador Shidehara's consideration and comment the following statement of the activities and organizations of the Japanese community now resident in the United States, and particularly in California.

The Japanese in the United States, and particularly in California, appear to have settled in well-defined areas where they set up a community life more or less separate and apart from the other inhabitants. Of the 150,000 or so Japanese in the United States, between 80,000 and 100,000 reside in California, and seem so far as rural population is concerned, to be distributed very largely in five areas known as the Colusa, Sacramento, Fresno, Los Angeles and Imperial Valley districts. To a very great extent they have concentrated their activities upon certain crops, principally fruit and garden products, and market them very largely through their own associations. They appear to be prosperous, hard working and well organized. They are in close touch with Japanese urban residents in the cities and towns of the State through connections to be described later.

These communities operate Japanese schools which the children of Japanese parents attend outside of public school hours. The curricula of these schools are based upon those prescribed in the schools of Japan. Religious organizations, with headquarters in Japan, maintain religious and cultural centers in the Japanese communities in the United States, and every effort is made to keep the younger generation of children away from the current of American civil life. Several thousand American born children of Japanese parent-

age are said to be at school in Japan. They leave the United States in their earlier years and do not return until they have completed the school curriculum in the homeland.

These agencies with their separate civic, religious and educational motives do much to keep the Japanese settlers and the native American population out of sympathy with one another.

In addition to separate social institutions, the Japanese in the United States maintain publicity bureaus for the avowed purpose of influencing the public opinion and even the political action of the American people. Japanese propaganda, with these objects in view, is constantly finding its way into print. This publicity matter covers a wide range of subjects from the California land laws to Japanese political, diplomatic and military problems in Korea, China, Siberia and elsewhere.

Counsel is employed to press suits in the courts, as well as to lobby in the State Legislature, either for or against measures calculated to affect what are regarded as peculiar Japanese interests inside this country.

Japanese cooperative societies conduct a great deal of the business of the Japanese communities. They operate stores, buy and sell the produce of the Japanese farmers, and no endeavor is spared to keep each Japanese community a unit in the handling of their agricultural products from the time the seed is sown until the cultivated product reaches the ultimate consumer. The idea conveyed is that it is intended to maintain the Japanese communities in this country as

self-sufficient economic units distinct from the American communities in which they live.

All of these activities require extensive organization, and concentrated control. This organization is supplied by what are known as the Japanese Association. A Japanese Association, or Nippon Jinkai, is found in every city or town where the Japanese population is sufficient to warrant it. Its membership is composed of all Japanese households in the community.

These associations are grouped into regional or general associations. For example, in California there are two general associations with headquarters at San Francisco and Los Angeles. The Association at San Francisco has somewhere in the neighborhood of forty local associations under its control, while that at Los Angeles has about a dozen.

To support these organizations a membership fee is assessed on all Japanese families. This membership fee seems to vary with the income and standing of the family, and is not generally uniform in all associations. It appears to range from $3 to $24 per annum.

One of the functions of the association is to keep a record of its members. This record in many respects resembles the *koseki*, or family registration, kept by the local registrars in Japan. The associations also certify to the identity and standing of their members. These records and the seal of the association are accepted, apparently, at their face value by the Japanese Consular officers in their official capacities. Fees are collected for these services.

These associations are governed by councillors elected by the members. The councillors elect a president, vice president, treasurer, secretary or manager, and auditors. Japanese not in good standing in their associations, can not, of course, obtain certificates of identity or standing, without which it is difficult to secure official services from Japanese Consular officiers unless they are personally known to them. They might also find themselves in order difficulties if banned by the association.

The organization of the central or regional Japanese Associations is similar to that of the local associations. Councillors are elected by delegates from the local associations, and these in turn elect executive officers to manage the affairs of the central office. This organization is supported by levies on the local associations, and by certificate fees. They have, for example, the power to suspend a local association. Suspension means that the local body can not collect membership dues or fees for certificates, and that its members would be deprived practically of the benefits of the Association. They would have difficulty in getting notarial or other services at a Consulate where local certificates would be asked for. All the many activities of Japanese community life, including the school boards which manage the Japanese schools are closely affiliated with, and are assisted by, these associations.

An interesting example of this is the Central California Agricultural Society. This society is reported to have a Managing Director and a number of Councillors appointed by

the Japanese Consulate General at San Francisco with the concurrence of the Secretariat of the Japanese Association. It is stated to be subsidized by the Japanese Association and to receive from the Consulate General a portion of the certificate fees collected at the office.

Some of the objects of this society as stated to have appeared in its Japanese prospectus published in August, 1919, are: Establishment and regulation of organs of money circulation for agriculture; laying out of farms; and the creation of model farm villages; assistance in buying and selling farm products; assistance in buying necessary articles for the farms. Among its directorate, either Central or local, are to be found representatives of the Specie Bank, Mitsui Company, Toyo Kisen Kaisha, and others.

When the objects of the organization, as stated, are considered in connection with its directorate and the alleged manner of its appointment, it is hard to escape the conclusion that the definite object of the society is to build up a self-supporting and independent alien agricultural population inside the limits of the State of California.

This organization, with its local affiliations among the Japanese Associations, the associations themselves, with their separate schools, their registrations, their official connections, their willingness, as openly expressed in Japanese papers, to make use of the American citizenship of their children to advance the interests of Japanese residents as such, constitute a type of alien community with which Americans are not familiar. Japanese children born in this country are by

its laws and Constitution American citizens. To have them carried on the rolls of the Japanese Associations, and to know that they are thus considered as Japanese subjects, makes the average American doubt the wisdom, or even the possibility of considering them Americans at heart.

No other immigrants to this country have ever adopted such closely unified organization with apparent official sanction; an organization that is prepared to use all domestic political and economic machinery to accomplish its purposes and to appeal to the diplomatic interference of its home government when its methods produce violent reaction on the part of the native population.

Ambassador Shidehara stated, in reply, that he fully appreciated the motives which actuated Ambassador Morris in making these frank observations. He was no less anxious to eliminate all conditions which might tend to keep the Japanese settlers and the native American population out of sympathy with each other. It, however, occurred to him that some of the facts pointed out by Ambassador Morris were at variance with what he himself had understood.

He was aware that a number of Japanese private schools had been established in California as individual Japanese enterprises, and that some of them obtained financial support from local Japanese associations. Their primary object was to teach the Japanese language. They were in no way calculated to keep the younger generations of Japanese parentage away from the current of American life. Their curricula were widely different from the course prescribed in the

schools of Japan. Such difference would be manifest when it was considered that not more than one or two hours a day were actually assigned for lessons in these schools. Reports that 5,000 American born children of Japanese parentage were at school in Japan seemed hardly credible. Ambassador Shidehara was, however, informed that having regard to the present trend of anti-Japanese agitation in California, and more especially to the suggestions which were being made to deny the rights of American citizenship even to those American-born children, profound unrest prevailed among Japanese resident who were beginning to look with grave concern upon the future destiny of their children. In this situation, it was conceivable that many of the parents had sent their children back to Japan for education. In any case, this fact would serve to show the inefficiency of the Japanese private schools in America.

Activities of Japanese Buddhist priests appeared to be no less exaggerated. It was known that criticisms had sometimes been raised among Japanese residents of Christian faith against utterances of certain Buddhist priests. Without attempting to pass upon the merits of these criticisms, Ambassador Shidehara thought it fair to say that activities of Buddhists in the United States were generally confined to religious functions, and were not directed against Americanization of Japanese residents. He was informed that Buddhist organizations having headquaters in Japan maintained and operated schools in Hawaii, but not in the American mainland.

Turning to the question of Japanese Associations in the

United States, it was, in the opinion of Ambassador Shidehara, entirely erroneous to regard them as organs of Japanese propaganda. These Associations were evidently intended to promote general welfare of Japanese residents in their respective localities, but not, by any means, to carry on activities disregardful of American institutions. They had, on the contrary, directed their attention and labor for educational work among their own nationals with a view to familiarizing Japanese settlers with American manners and customs. They were largely responsible for the improvement which had recently manifested itself in the relations of personal intercourse between Japanese settlers and their American neighbors in many rural districts of California. It was true that Japanese residents had made use of these Associations in an attempt to seek relaxation of harsh discriminatory treatment imposed against them by local legislation or otherwise, and to guard themselves against further anti-Japanese measures. But these movements were to be explained in the light of human nature of self-defense, and were not influenced by any design of interfering in American political situation. It would certainly be too much to expect that they could be induced to remain inactive and tolerant, in the face of any anti-Japanese agitations which might threaten their security and their means of livelihood. These agitations had indeed compelled them to organize themselves to avert their common danger.

The Japanese Associations were requested, in many cases, by the Japanese Consulates to serve as sureties for their nationals making applications to the Consular authorities for

various forms of certificates. It was practically impossible for a limited number of Japanese Consular staff to conduct personal examination of each of these numerous applications, and they naturally sought, for this purpose, the assistance of the Japanese associations which might be deemed reliable.

It was absolutely untrue that the Japanese Consulates or Japanese associations had conducted the work of propaganda for influencing public opinion in the United States on political, diplomatic or military problems in Korea, China, Siberia, or elsewhere. There were certain Japanese publicists in the United States whose profession was to write articles for publication, and who undertook from time to time English translation at the request of the Japanese Consulates or Associations. But they could not be regarded as publicity agents for Japan, any more than American or European writers resident in the United States would be for their own countries.

The Central California Cooperative Society of Japanese farmers, of which mention was made in Ambassador Morris' remarks, had been called into existence by natural requirements of Japanese farmers, most of whom were practically unable to carry on commercial transactions unassisted, for the sale of their products or the purchase of necessary articles for the farms. The Society rendered all the needed assistance to the farmers.

At all events, Ambassador Shidehara expressed willingness to call the careful attention of the parties interested to the conditions pointed out by Ambassador Morris.

EIGHTH AND NINTH MEETING
OCTOBER 23 AND 26, 1920.

The conferences on these dates were confined to a discussion of alleged discrimination against Japanese in the United States and suggested remedies. Ambassador Morris stated that he would appreciate from Baron Shidehara a statement of his understanding of the character and extent of the discrimination concerning which his Government complained.

Ambassador Shidehara observed that, so far as he was aware, the Alien Land Act of California of 1913 was the only enactment actually in force within American Territory, that provided discrimination of the most glaring nature against the Japanese. Bills with a similar object in view had from time to time been introduced into Legislatures of some States of the Union, but had eventually failed to pass.

The California Act of 1913 had elicited protests from the Japanese Government, and the question still remained unadjusted. In the long series of communications addressed on the subject to the Secretary of State by the Japanese Ambassador in 1913 and 1914, the position of the Japanese Government respecting that enactment was made sufficiently clear. It was substantially to be following effect:

In the first place, the provisions of the Statute, which are intended either to abridge treaty rights of the Japanese in the matter of acquisition and disposition of real property

and interest therein, or to unsettle real estate titles already duly vested under the laws of California, are contrary to the express stipulations of the existing Japanese-American Treaty in the following respects:

(*a*) That, so far as the Act takes away from Japanese subjects the capacity, hitherto freely enjoyed by them, to acquire, by devise and descent, houses for all purposes, and leasehold of land for residential and commercial purposes, it is in conflict with the first clause of Article I of the Treaty, since that clause accords to Japanese subjects liberty to own houses, and to lease land upon the same terms as American citizens;

(*b*) That, so far as the Act deprives Japanese subjects of the capacity to bequeath and transmit to their devisees and heirs real property and interest therein, duly acquired by them under the Treaty, it is inconsistent with the first and third clauses of Article I, since, in addition to the guarantee of equal treatment which is contained in the first clause above-mentioned, property of Japanese subjects is, by first clause, assured of the same most constant protection, the same equal protection of equal laws, that is accorded to the property of American citizens; and

(*c*) That, so far as the Act takes away from Japanese subjects the capacity of bequeathing and transmitting real property and interest therein, already duly acquired by them under the laws of California, it is repugnant to the third clause of Article I of the Treaty,

since it impairs obligations of the contracts under which such property was acquired and is held and thus deprives Japanese subjects of that equal protection for their property, which the Treaty extends to them.

The Japanese Government are also of the opinion that the Act in question, so far as it takes away from Japanese subjects the right to dispose, in any manner whatever, of the real property or interest therein, lawfully acquired by them prior to July 17, 1911, is in impairment of vested rights created under the Treaty of 1894.

The Statute, it is true, contains provisions that aliens ineligible to citizenship may acquire, enjoy or transfer real property or any interest therein in the manner and to the extent and for the purposes prescribed by any Treaty now existing between the United States and the country of which such aliens are subjects or citizens. It, however, frequently happens that two friendly nations cease to have any commercial treaty in force between them, without impairing their mutual relations of amity and goodwill. Should such contingency present itself in the intercourse of Japan and the United States, Japanese subjects will apparently be denied all rights relating to real property in California, now guaranteed by the treaty, whereas aliens eligible to citizenship are placed on a national footing, in the matter of such property rights, independently of treaty engagements. Accordingly, the security of the rights acquired lawfully and in good faith by the Japanese would, under the California enactment, be in constant and serious danger, from which aliens

eligible to citizenship are safely guarded. Those just rewards of honest toil, upon which so many Japanese families depend for their livelihood, might be deprived of all protection under the Act, by causes for which they are in no way responsible.

But the most objectionable feature of the Statute lies in the manifest discrimination levelled at the Japanese.

International discriminations are in any case obnoxious, and, if carried beyond limits of actual and recognized necessity, are harmful to international good relations. In the definition of these permissible limits, and in the establishment of the principle of equal opportunity, no country has taken a firmer stand or exercised a more powerful influence than the United States. Thus in 1879, the Secretary of State, in an instruction addressed to the American Minister to Mexico, announced that

> "a Mexican statute discriminating against citizens of the United States and other aliens in respect to the capacity to hold real estate in Mexico is in conflict with the Treaty of 1831."

The Treaty, so appealed to, contains no express provisions on the subject of ownership of real estate. It reciprocally accords most favored nation treatment in respect of commerce and navigation, and grants the right of residence, of hiring houses and warehouses for the purposes of commerce, and of succession of personal estate, and it also extends protection to persons and property. Accordingly, it is presumed that the discrimination complained of was in disregard

of the spirit and purposes, rather than express words, of the treaty.

But unjust discrimination based upon race are still more objectionable. Russia's severe treatment of Jews has been deeply resented by the United States. and on December 13, 1911, the House of Representatives, by an unusal vote of 301 to 1 passed a resolution strongly condemning the action of Russia, and calling upon the President to denounce the then existing treaty between the United States and Russia. Three days after the adoption of that resolution, the United States notified Russia of the termination of the treaty. The action of Russia, it seems, was not directed against American Jews exclusively. It applied equally to all alien Israelites, and, although resting largely upon race and religion, the discrimination complained of was inspired, in part at least, so Russia declared, by economic consideration. If, in the presence of this state of things, the United States Government found sufficient reason to object to Russia's action, then the Japanese Government have much stronger grounds for protesting against the invidious discrimination of the California enactment, since those discriminations are, not only irreconcilable with express treaty stipulations, but, being national and racial, are in clear disregard of national susceptibilities.

California is the only State, it is believed, in which the right of aliens to hold real property has been made to rest upon eligibility to citizenship. Such eligibility, in the context in which it is used, has no relation to the question

of citizenship, since no action looking to ultimate naturalization is required. The formula appearing in the Califorina Statute was employed as a convenient paraphrase to express firm intention to discriminate against the Japanese as compared with aliens belonging to white and African races in the matter of ownership of land and houses.

The objectionable character of the Californian enactment seems to have been clearly recognized by the President, who, in a telegram forwarded to the Governor of California on April 22, 1913, stated that

> "invidious discrimination will inevitably draw in question the treaty obligations of the Government of the United States. I register my very earnest and respectful protest against discrimination in this case."

It is true that every nation has her freedom of domestic legislation in matters that are not expressly stipulated in her treaties with other Powers. However, in the exercise of this right, it is generally deemed necessary, where friendly nations are concerned, to practice moderation, so as to maintain the principle of mutual respect, to promote the relations of reciprocal interest, and not to defeat the very aim and design of the treaty itself. The absence of any specific reference to the question of alien land ownership was certainly not intended to accord to either party an opportunity to enact laws, the effect of which would be incompatible with the objects of the treaty. Japan relied entirely, in this respect, upon the judicious consideration and the sense of equity of the American people.

With regard to the question of naturalization, fundamentally speaking it should no doubt be considered as a political problem which concerns each individual nation, but when, as in the present case, the question is employed as a means of enforcing a discriminatory measure it must necessarily assume an international aspect. Historically examined, there is no doubt that no discrimination against the Japanese nation was ever intended either by the framers of the Constitution, or by the authors of the subsequent amendments, and this very fact in itself should, it seems, dissuade the American legislators of the present time from availing themselves of the non-explicit terms of the laws for the purpose of inflicting a stigma upon a friendly nation.

In the matter of alien land ownership, the United States has already conceded to some foreign nations most favored nation treatment, and even to a more generous treatment similar to what is accorded to its own citizens.

In reply, Ambassador Morris pointed out that there was obviously no intent upon the part of the people of California to enact any legislation in conflict with any treaty provisions; that the Act of 1913, referred to by Ambassador Shidehara, which prevented the ownership of land by aliens ineligible to citizenship, specifically mentioned, and assumed, all the obligations existing between the Government of the United States, and the nation or country of which such alien is a citizen; and, in the same manner, the proposed Initiative Act of 1920 expressly provides in the second Section that all aliens ineligible to citizenship may acquire, possess, enjoy

and transfer real property in the State of California in the manner, and 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. Whether apart from the clear intention of the Act, the legislation does in fact conflict with either the constitutional or treaty provisions of the United States is a legal problem which Ambassador Morris contended ought to be definitely determined by our courts.

He stated that it was a curious fact to him that in the six years or more which had intervened between the passage of the Act of 1913, and in spite of the fact that it was contended by the Japanese Government in all its diplomatic communications that the Act did offend against the treaty provisions of the United States and Japan, not a single case, so far as he knew, had been submitted to our courts upon this purely legal question. Ambassador Morris emphasized the importance of such determination. If the courts should hold that the legislation of California offended against either our constitutional or our treaty obligations, that would be the end of any question of discrimination, particularly in view of Ambassador Shidehara's statement that as far as he knew this was the only discriminatory legislation at present existing, or proposed, throughout the United States.

Ambassador Morris further stated that only today he had received by mail copies of pleadings involving a contract for the sale of land and a request for the specific performance of the contract, which seemed to raise very definitely the

validity of the California legislation of 1913. It might, therefore, be that in the course of a few months we would have a determination of this question. The absence of such determination creates an embarrassment because until a decision is rendered, we are not certain whether we are discussing a real or a fictitious issue. This embarrassment is the result of an inverted system of procedure. Generally issues are not presented diplomatically until every existing legal remedy had been exhausted. In this case, the diplomatic representations had been made with reference to the alleged discrimination by the State of California, before there had been any attempt to resort to the legal remedies clearly open. In our discussion, therefore, it became necessary for us to assume that the California legislation was valid. This is probably a proper assumption so long as no test has been made in the courts. On this assumption, we could then discuss the nature of the discrimination as alleged by the Japanese Ambassador.

Ambassador Morris was inclined to sympathize with the point that there was evidence of an intent to discriminate racially by the use of the ineligibility to citizenship of certain races as the means of depriving them of civil rights enjoyed by other aliens. In this respect, he shared the views expressed by the President on April 22, 1913, and quoted by the Ambassador in this statement.

Turning for a moment to the provisions of the proposed legislation of 1920, Ambassador Morris stated that in his judgment portions of the legislation as submitted to the popular vote were entirely proper and justified. We all realized

that considerable feeling had been aroused since 1913 by the efforts which Japanese aliens in California had made to evade the provisions of that Act. These clever legal devices to evade the Act are in startling contract to the failure of any Japanese aliens to test the Act. It seems to indicate disinclination to test the question in the obvious, effective way. Portions of the proposed Act of 1920 are clearly intended to prevent the rather ingenious devices which lawyers have created for the purpose of evading the Act of 1913, which in so far as they apply to the children of Japanese aliens resident in the United States can not be the subject of diplomatic discussion, as we consider it purely a domestic issue because these children are not subjects of Japan but citizens of the United States. He was, therefore, compelled to conclude that this single case of alleged discrimination was far less serious in its intent or in its effect than had been represented; that a failure to test it during a period of almost seven years was fairly strong evidence that it had not operated with very great injustice on those whom it affected; and that it was finally not enacted in any unfriendly spirit, or with any desire to ignore treaty obligations with any friendly country.

Ambassador Morris, however, stated quite frankly that putting aside the more or less technical discussion, he was personally opposed in principle to anything that savored of discrimination against any friendly nation, and to the extent that the California Act, if valid, might discriminate as to the rights of aliens, he was prepared to consider sympatheti-

cally any action which would prevent discrimination of this character.

In reply to Ambassador Morris' remarks, Ambassador Shidehara pointed out that both under the Alien Land Law of California of 1913 and under the pending initiative measure in question, all aliens eligible to citizenship were expressly permitted to "acquire, possess, enjoy, transmit and inherit" real property or any interest therein on national footing, whereas non-eligible aliens could only "acquire, possess, enjoy and transfer" it in the manner and to the extent and for the purpose prescribed by treaty. In other words, the right of transmission and inheritance was specifically denied to non-eligible aliens, whether or not it was guaranteed by treaty. Ambassador Shidehara had already explained that the denial of such right was evidently inconsistent with the Treaty of 1911. Without repeating the contentions previously advanced, he only desired to advert to this point, as an example justifying inference that the framers of the Alien Land Legislation existing, or pending, in California had not been moved by any serious intent to respect treaty stipulations.

He was unable to bring himself to the conclusion that any portions of the proposed initiative legislation were either proper or justified. On the contrary, the whole bill was indicative of bitter racial prejudice, thinly veiled under the plea of economic necessity. If Japanese in California attempted to defeat by ingenious legal devices the essential objects of the Act of 1913, they had apparently felt constrained to resort to such devices to guard themselves in the face of

the harsh, discriminatory law against which the President had earnestly protested. They had so far refrained from bringing up law-suit to test the validity of the Act. Legal proceedings would involve considerable expenses to the litigants, and it seemed only natural that the farmers having little financial resources at their command were disinclined to bear those expenses.

As regards Ambassador Morris' suggestion that every existing legal remedy should be exhausted before diplomatic representation could be made, Ambassador Shidehara was of the opinion that the principle suggested was justly applicable in case of diplomatic protection invoked in support of private claims of individual complainants. In the case under consideration, the representation made by the Japanese Government to the Government of the United States was of an entirely different nature. The issue was one affecting the international intercourse between the two countries, apart from private claims of individual Japanese. It involved the question of treaty rights and legal position of Japan which were apparently disregarded by the action of the State of the American Union, with consequences harmful to the relations of good understanding between the two countries. It was the manifest duty of the Japanese Government at once to enter into communication with the American Government in a sincere endeavor to remove the cause of international complications. Such procedure was, Ambassador Shidehara believed, fully warranted by a long series of diplomatic precedents.

Ambassador Morris then referred to the previous treaty

negotiations which, he understood, had been abandoned at the suggestion of the Japanese Government, and he inquired of Ambassador Shidehara whether he would be willing to recommend to his Government the exclusion of all laborer immigrants to the United States in return for a recommendation to the American Government of a treaty embodying the principle of the most favored nation treatment for Japanese in the United States.

In reply, Ambassador Shidehara submitted for consideration and discussion the draft of a new treaty which he had tentatively drawn himself, and which he personally thought might meet the situation. The draft reads as follows:

ARTICLE I.

"(In return for certain rights of land tenure actually accorded to the citizens of the United States under the laws of Japan.) The United States engages to extend equally to the Japanese subjects all rights, privileges and advantages which are at present granted, or which may hereafter be granted, to the subjects or citizens of any foreign country, either by treaty or by Federal or State legislation, with regard to the acquisition, possession, enjoyment, disposition, transmission or inheritance of any real property or of any interest therein, in the territories of the United States.

ARTICLE II.

" In return for the right of ownership in land actually

accorded to the Japanese subjects under the laws of the various States of the United States, Japan engages, on her part, to extend equally to the citizens of the United States all rights, privileges and advantages which are at present granted, or which may hereafter be granted, to the subjects or citizens of any foreign country, either by treaty or by legislation, with regard to the acquisition, possession, enjoyment, disposition, transmission or inheritance of any real property or of any interest therein, in the territories of Japan.

ARTICLE III.

" The subjects or citizens of each of the Contracting Parties shall enjoy, in the territories of the other, the same rights, privileges and advantages as the subjects or citizens of the most favored nation, in whatever relates to the exercise of their industries, occupations and other lawful pursuits."

Ambassador Morris stated that he would carefully consider the above draft, and comment on it at a subsequent meeting. In the meantime, he stated again that he would urge upon Ambassador Shidehara a new form of agreement which would provide for the total exclusion of Japanese from the United States, and he submitted to Ambassador Shidehara, for his consideration, a rough draft of a formal note to be written by the Japanese Government which, he believed, would accomplish that end. The note was as follows:

" I have the honor to inform you that my Govern-

ment have adopted the following regulations in regard to applicants for passports for the United States, including Hawaii.

" Hereafter, passports will be issued only to officials of the Japanese Government, merchants, students, travellers for curiosity or pleasure, professional people including physicians and surgeons, teachers, actors and clergymen who have professional engagements in the United States, and to such other persons not included in this classification as have previously been domiciled in the United States, and have not been absent from the United States for a period exceeding one year. Merchants will be required to show the character of their business and must be of sufficient standing to warrant a business trip to the United States. Passports to students will be restricted to persons pursuing studies in higher institutions of learning or in professional schools.

"The two foregoing classes, as well as travellers, will be required to have sufficient means to insure their not becoming laborers while remaining in the United States.

" In order to insure the effectiveness of these regulations, my Government direct me to request the assistance of the United States in detecting and deporting Japanese subjects who arrive in American territory in contravention of the rules thus laid down, or who, after arrival, violate the conditions upon which the passports were issued.

" Accordingly, I have the honor to request you to

obtain, if possible, suitable authority from the appropriate branch of the Government of the United States to the end that Japanese subjects may not be permitted to enter or remain in the United States unless they are included within the above mentioned categories and bear proper passports issued by the Imperial Japanese Government.

" Should the Government of the United States take the action requested to this end, I have to assure you of the readiness of the Imperial Japanese Government to cooperate with it, through its diplomatic and consular representatives in the United States, by furnishing to the appropriate American authorities duplicate copies of documents evidencing the right of Japanese subjects to come or to remain in the United States, and such statistical or other information as may be found necessary or useful for the purposes of distinguishing those who are legitimately resident in this country.

I have the honor to be, Sir."

Ambassador Shidehara reserved comment on this note for a future conference.

TENTH MEETING—OCTOBER 27, 1920.

In opening the Conference, Ambassador Morris stated that there remained for consideration the question of dual allegiance of American-born children of Japanese parents. By our Constitution and laws, these children are citizens of the United States and entitled to all the rights and privileges pertaining to that status. On the other hand, by the laws of Japan, these native born American citizens are considered Japanese subjects and carried on the records of the Japanese Government as such. He asked if some arrangement might not be reached which would obviate this difficulty and prevent these persons from being technically the subject of two Governments. He stated that this situation was the cause of much embarrassment, both to Japan and the United States, and gave rise to much irritation on the part of American communities in which Japanese were domiciled in any great number.

Ambassador Shidehara stated in explanation of Japanese laws on the subject that Article XX of the Law of Nationality of 1899 provided that

> " A person who, of his or her own choice has acquired a foreign nationality, loses Japanese nationality."

Under the Law of Census Registration, when a person has lost Japanese nationality, such fact shall be notified to the competent Census Registrar by the head of, or successor to, the house to which he or she formely belonged, within

one month after the fact shall have been made known to the said head or successor. It is apparent, however, that the negligence or failure of such notification does not affect the fact of the loss of Japanese nationality.

The provision above quoted of the Law of Nationality does not cover the case in which a Japanese subject has acquired a foreign nationality by reason of his or her birth in a foreign country. Accordingly, in the amendments to the Law which were adopted in 1916, an additional Article, numbered Article XX Bis, was inserted in the following terms:

> " A Japanese subject who has acquired a foreign nationality by reason of his or her birth in a foreign country, and who has domicile in that country may be expatriated with the permission of the Minister for Home Affairs.
>
> " The application for the permission referred to in the preceding paragraph shall, if the person to be expatriated is under 15 years of age, be made by his or her legal representative, and, if the person in question is a minor above 15 years of age, or a person adjudged incompetent, the application shall be made with the consent of his or her legal representative.
>
> " A step-father, a step-mother, a legal mother, or a guardian, in making the application or giving the consent, as provided for in the preceding paragraph, shall obtain the consent of the Family Council.
>
> " A person who has been expatriated loses Japanese nationality."

In no case, however, does a male of full seventeen years or upwards lose Japanese Nationality, unless he has completed, or has been exempted from active service in the Army or Navy.

It will thus be seen that (1) all Japanese males under seventeen years of age, and all Japanese females of any age, lose Japanese nationality, ipso facto, upon acquiring foreign nationality by choice; (2) all Japanese males under seventeen years of age, and all Japanese females of any age, who have acquired foreign nationality by reason of their birth in a foreign country and who are domiciled in that country, may be expatriated at any time, by observing necessary formalities prescribed in the law.

With regard to Japanese subjects not coming under any of the foregoing categories, Ambassador Shidehara understood that, under existing laws, there were difficulties in the way of their expatriation, unless they had completed, or had been exempted from, active military service in Japan. The question, however, was one affecting Japan's relations, not only with the United States, but also with all other countries, and Ambassador Shidehara was not prepared to make any statement or ruling on the subject without considerable consultation with his Government. He, therefore, hoped that the question of dual nationality would be considered as a separate issue.

Ambassador Morris replied that in his judgment this question of dual nationality could hardly be considered as a separate issue. He was familiar with the Japanese law of

expatriation as outlined by Ambassador Shidehara, but felt strongly that it failed to meet the situation as it existed in California, for instance. It was impossible for him to obtain accurate figures, but his information indicated that very few children born in the United States had themselves, or through their parents, complied with the legal requirements for expatriation, and the practical result was that we had resident in our country a large body of Japanese enjoying all the rights and privileges of American citizens, and yet treated by the Japanese Government as subjects of Japan and under obligation to serve in the Japanese army, and fulfill the other duties of Japanese citizenship. He believed that this anomalous situation was created by the character of the Japanese laws which required an affirmative act to divest one born abroad of Japanese citizenship instead of recognizing citizenship acquired by birth, and then providing some affirmative act to obtain Japanese citizenship. Ambassador Morris repeated his conviction that any fundamental settlement of the questions which they had discussed so fully must include not only some method to abolish dual citizenship, but aslo a discontinuance of the supervision now exercised by the Japanese Consulate service over American born children of the Japanese race.

ELEVENTH MEETING—OCTOBER 29, 1920.

Ambassador Shidehara stated with reference to Ambassador Morris' concluding remarks at the last conference, that he felt that it was a misnomer to state that the Japanese Consulate exercised supervision over American-born children of Japanese parentage. It was not possible for Japanese Consular officers to exercise such supervision in a foreign country. Respecting the relation of Japanese Consulates to Japanese Associations, he stated that in many cases, as he had previously explained, owing to the shortage of clerks in the Consulates, the Consuls had relied upon the records of the Japanese Associations, as it was manifestly impossible for the few Japanese Consuls to be personally familiar with all the Japanese who had official business. The Consul also was naturally on quite friendly terms with the leaders of Japanese community life and the men who were elected to office in the Japanese associations. It could hardly be said, however, that the Consulates or associations made any effort to hinder the Americanization of the Japanese in the United States. On the contrary, they made every effort they could to acquaint the people with American laws and customs. One of the chief difficulties, to his mind, seemed to be the absolute disregard of the provisions of the Japanese laws on the part of the residents themselves, whose children openly stated that being American citizens and born in the United States, they had no intention whatever of observing any Japanese law, so far as it concerned them.

Consequently, a number of American-born Japanese grew to manhood and womanhood in this country and were still carried on the rolls as Japanese subjects, simply because they had not taken, or their parents had not taken for them, the few steps which would divest them of their Japanese allegiance.

In conclusion, he reiterated his willingness to discuss this question, but asked Ambassador Morris not to make it one of the conditions of the present settlement as it had so many ratifications and affected so fundamentally the general principle of the Japanese law of nationality, that he did not feel it could fairly be considered as one of the peculiar questions at issue between Japan and the United States alone. Japanese laws for the determination of nationality are based, as in many countries of the European Continent, on jus sanguinie and not on jus soli adopted in the United States and England. The suggestion now made by Ambassador Morris involved the entire re-casting of the principle underlying Japanese laws, and Ambassador Shidehara considered it hardly practicable.

Ambassador Morris stated that he felt that some effort should be made to reach an agreement on this vexatious subject. It was the desire of the United States to absorb into its body politic the children born of immigrants in this country and to have them sever, as far as possible, all communications with the country of their parents. This situation was rendered very difficult by the Japanese law of nationality which required affirmative action on the part of Japanese children born in the United States to divest themselves of Japanese nationality although they were by birth American

citizens and presumably had no intention whatever of leaving this country permanently. He also drew attention to the very active part taken by the Japanese associations in preserving records of children born of Japanese parents in this country, and thus automatically furnishing the Japanese Consulates with records showing the nationality of these people. He felt that the close relationship which existed between the consulates and the Japanese associations amounted almost to supervision on the part of the Consulate. He was of the opinion that before any final settlement could take place, it was essential that this close association between the officials of the Japanese associations and the officials of the Japanese Government in this country be discontinued. The close connection which now exists was felt by the people of California to amount almost to an attempt on the part of the Japanese Consulates to maintain control over the Japanese resident in that State.

TWELFTH MEETING—NOVEMBER 9, 1920.

The conference was taken up with a discussion of the rights of foreigners in Japan under existing treaties and under the actual operation of Japanese law. Ambassador Morris stated that he understood that there were restrictions placed upon the right of foreigners in Japan to own land inside the Empire.

Ambassador Shidehara stated that there were certain restrictions which were applicable to all foreigners alike, and made the following comments.

Under the Japanese law in actual operation, foreigners are not permitted, as individuals, to acquire absolute ownership in land. An Act was passed by the Imperial Diet in 1910, extending the rights of aliens so as to include land-ownership, but it has not yet been put into force, owing to certain features of that law, which were considered to be defective. A new bill in revision of the Act of 1910 is now under contemplation, and is expected to be introduced at the next regular session of the Imperial Diet.

In any case, it should be noted that no discrimination whatever is made against any particular class of aliens. All persons who are not Japanese subjects stand exactly upon the same footing.

Nor is there anything in the existing system which precludes a juridical person formed and registered under Japanese laws from acquiring ownership in land, even though its

members or share-holders are all aliens. The statistic for 1909 shows in fact that 169 juridical persons composed exclusively of aliens were taken in the enjoyment of absolute ownership in land.

Foreigners are further permitted, under the laws now in operation in Japan, to acquire rights in land, other than ownership, on the same footing as nationals. The following are some of the most important of those rights.

1. *Superficies.*

Superficies is a right *in rem*, by virtue of which land belonging to another person can be used for the purpose of owning thereon structures, trees or bamboos. It can be created even though no structures, trees, or bamboos are actually in existence on such land, provided that the object and intention is to use the land for the purpose named. The law contains no limitation upon the period of time for which that right can be created. A superficies for, say, one thousand years will sell for a sum closely approximating the value of a right of absolute ownership.

2. *Emphyteusis.*

Emphyteusis is a right *in rem*, to carry on agricultural or stock farming on the land of another person. The period of time for its duration is to be fixed by the parties concerned at not less than twenty years and not more than fifty years.

3. *Lease-in-perpetuity.*

Lease-in-perpetuity is a lease without limit as to its duration, and, for all practical purposes, it is as good as ownership. It was granted exclusively in favor of foreigners of a nominal consideration paid to the Japanese Government. It only exists within the limits of the former Foreign Settlements which were established in the open ports of Japan when the country was first opened to foreign intercourse. In 1898, those Foreign Settlements were abolished. But the perpetual leasehold still survives and continues to be enjoyed by foreigners.

4. *Leasehold.*

Leasehold is a right *in personam*, effective only as between the parties concerned. But when it is registered, it can be set up against third persons as the effect of registration. The period of its duration can not exceed twenty years. Such period may be renewed, but the renewed period shall not exceed twenty years from the time of renewal.

THIRTEENTH AND FOURTEENTH MEETING— NOVEMBER 18 AND 19, 1920.

At these conferences Ambassador Shidehara submitted his views on the suggestion which Ambassador Morris had made in the course of the conference of October 26, respecting a formal note to be written by the Japanese Government in the matter of new passport regulations.

He stated that he was confident that the American Government would appreciate manifold difficulties confronting Japan in revising the terms of the Gentlemen's Agreement. In order, however, to meet as far as possible the views expressed by Ambassador Morris in the course of the present negotiations, he was now ready to recommend to his Government that instructions be issued to all Prefectural authorities embodying the revised rules in question, and that a copy of these instructions be officially notified to the American Government. He then presented a draft of such instructions, which, he said, was by no means definitive, and he added that it might perhaps be necessary to make a special provision for the applicants of passports who desired to obtain facilities of mere transit through American territory on their way to foreign destination.

Ambassador Shidehara had no objection to an arrangement to the end that any persons contravening the revised terms of the Gentlemen's Agreement be refused admission, whenever such contravention should be discovered by the

American immigration authorities at the ports of landing. But the refusal of admission should, Ambassador Shidehara hoped, be limited to the cases where the violation of the Japanese rules was discovered upon examination at the time of entry. He desired that with regard to persons duly admitted, they should no longer be made liable to any special supervision, apart from provisions of general laws in the United States. Such a supervision, in order to be effective, was bound to affect, not only particular classes of Japanese, but also practically all bona fide, non-laboring residents of that race, since they might be called upon to answer, at any moment, rigid and humiliating scrutiny at the hands of the American authorities to prove their identity and their actual means of livelihood. The enforcement of these special measures against Japanese residents could not fail to cause irritation and misunderstanding, harmful to international good relationship. It moreover implied in itself a discrimination by the American authorities, which it was the intention of the pending negotiations to eliminate.

Ambassador Shidehara proceeded to state that being fully sensible of the position of the American Government, his Government would probably raise no difficulty to the deportation of any person who might be found at the time of arrival in the United States to be a transgressor of the revised terms of the Gentlemen's Agreement. He would, however, prefer that such measures of deportation be taken by the United States of its own accord, and not at the request of the Japanese Government, it being understood that such

measures would not contain any form of discrimination. He suggested, for instance, that the essential object kept in view by the American Government might be attained by issuance of an Executive Order in the United States authorizing the immigration authorities to refuse admission to any aliens found in their attempt to enter the United States for purposes other than those expressly specified in their passports.

As regards the suggestion that the Japanese Diplomatic and Consular Officers should furnish to the appropriate American authorities duplicate copies of documents evidencing the qualifications of Japanese to obtain passports under the revised terms of the Gentlemen's Agreement, Ambassador Shidehara presumed that those documents would be of considerable volume for each applicant, as they had actually proved to be under the practice hitherto followed. It would manifestly be impracticable to arrange them in order, and to forward them forthwith to the Japanese Diplomatic and Consular Officers, for submission to the American authorities at the time of the passport holders' arrival in the United States, more especially if such papers were to be accompanied by English translation. Moreover, the production of those papers to the American authorities was likely to give rise to the criticism that the ultimate and supreme decision of granting Japanese passports rested practically with the United States, since the decision taken by the Japanese authorities upon examination of such documentary evidence was liable to be quashed by American officials upon re-examination of the same evidence. The repetition of these proceedings would

be construed as signifying undue distrust in the sincerity and diligence of the Japanese authorities for scrutinizing applications for passports.

Ambassador Shidehara felt, however, confident that the Japanese Government would be willing at all times to render to the American authorities such cooperation as they properly could, without committing themselves to a position of indignity which the submission of documentary evidence to the American authorities for re-examination seemed to imply. He was further prepared to see either to a more detailed description being given in passports, than under the existing practice, with regard to the objects for which the applicants might intend to proceed to the United States, or to a similar statement being affixed to passports, for example, in case of students, a statement defining the course of learning which they desired to pursue in the United States.

In short, Ambassador Shidehara understood Ambassador Morris' suggestion to indicate that all Japanese emigrants should, without exception, be prohibited from proceeding to the United States; that the documentary evidence of the qualifications of each applicant for passport be produced to the American authorities for re-examination; and that Japanese residents in the United States would be liable to deportation, independently of provisions of general laws. Such arrangement appeared to Ambassador Shidehara to amount to nothing else, in its consequences, than the enactment of a Japanese Exclusion Law. It would painfully discourage the sincere and arduous efforts of the Japanese authorities

to control the emigration of their nationals, in the interest of cordial relations between the two countries.

Ambassador Shidehara was deeply mindful of the present difficult situation. He, however, confidently believed that the rules prescribed in the draft instructions to the Japanese Prefectural authorities, coupled with the system of deportation by the American authorities of transgressors of those rules at the time of attempted entry, would fully meet with the requirements of the situation. The adoption of the proposed measures would no doubt serve to check effectively all further emigration of labor from Japan to the United States, and would lead to gradual decrease of Japanese labor immigrants in the United States. Any further measures of discriminatory supervision over Japanese at the hands of the American authorities would not only be of little importance, but it might prove to be a new source of irritation and difficulty between the two nations.

Ambassador Morris felt that he could not agree that the control of the United States Government authorities should be limited entirely to the time of entry of the immigrants into the United States. This in his judgment would obviate the whole purpose which they had in mind, which was to give to the officials of the Federal Government the right, not only to deport those who attempted to enter in contravention of the provisions of the Gentlemen's Agreement, but also to deport any of those who might have entered the United States or Hawaii surreptitiously or who after entry should change their status and become laborers. He regretted that

Ambassador Shidehara found objection to the form of note which Ambassador Morris had originally submitted, but he was not inclined to insist upon any particular form, and if the inclusion of a request from the Japanese Government to our Government would be unsatisfactory, he would not press for that, provided that the main object sought to be accomplished could be attained in some more agreeable form. He was inclined to believe that Ambassador Shidehara's suggestion of including in all passports the object for which the emigrant entered and reside in the United States might be feasible, provided that the Japanese Government would agree that immigrants who entered without passports stating the purpose, or who after entry changed the object of their residence, would be subject to deportation. Ambassador Morris pointed out, however, that if such a plan were adopted, it must be on the understanding that in spite of any existing treaty provisions, Congress would have the right to include in any immigration legislation a general provision which would, in substance, provide that in the cases of those countries who under their own laws or regulations issue only limited passports for the emigration of their nationals to the United States or the territory of Hawaii which passports designate the status of the holder and the object or purpose for which he emigrates, the President is hereby empowered to authorize by executive order the deportation of any national of such country who may hereafter enter or remain in the United States for any objects or purposes contrary to the express provisions or conditions of such limited passport.

Ambassador Morris concluded by requesting Ambassador Shidehara to reconsider the proposals which he had made in the light of the above comments and to see if it were not possible for him to adopt and recommend the modifications above suggested.

A form of note and draft of Japanese passport regulations which Ambassador Shidehara submitted and which he believed he could recommend to his Government are as follows:

Sir:

Under instructions from my Government, I have the honor to communicate to you, herewith enclosed, a copy of the instructions, in English translation, which have just been issued to the competent Japanese authorities embodying the rules adopted in Japan with regard to passports for the Continental United States and Hawaii.

These rules are to come into effect on ..... 1921. It is to be understood that all passports already issued, or to be issued, shall be valid, provided that the persons holding such passports have left or shall have left Japan within six months from the dates of their respective passports.

I am further authorized by my Government to inform you that passports to be issued under the new rules in question shall contain description of the objects for which their holders intend to travel to, or reside in the Continental United States or Hawaii.

Accept, Sir, the renewed assurances, etc.

DRAFT OF REGULATIONS.

ARTICLE I.

Passports for the Continental United States and Hawaii shall be issued only to persons coming under any of the following categories:

(*a*) Government or public officials, or persons of a similar status.

(*b*) Students.

(*c*) Business men, merchants, office clerks, travellers, professional people including physicians, authors, teachers, clergymen, artists and actors, and other persons who are not engaged in any manual or mechanical work.

It is understood that persons classed under category (*a*) aforesaid shall include their families and domestic servants, and that passports may also be issued to the families and domestic servants of persons classed under category (*c*) aforesaid, in cases calling for special consideration.

ARTICLE II.

Independently of the restrictions contained in the preceding Article, passports may be issued or permission given for proceeding to the Continental United States or Hawaii, to those persons who have been previously lawfully resident therein and who have temporarily returned to Japan but have not been staying in Japan for a period exceeding one year.

Passports may likewise be issued for proceeding to Hawaii, to the wives and children of those persons who have been lawfully resident therein.

ARTICLE III.

Applications under category (*b*) of Article I shall be required to present statements of their curricula vitae and to specify in the applications names of the schools to which they desire to be admitted and the course of learning which they intend to pursue, upon arrival in the Continental United States or Hawaii.

ARTICLE IV.

Applicants under category (*c*) of Article I shall be required, except when they are of distinguished status and career, to present statements of their curricula vitae, and to specify in the applications the business or profession in which they intend to engage in the Continental United States and Hawaii.

ARTICLE V.

Passports shall not be issued to persons under categories (*b*) and (*c*) of Article I, unless they possess sufficient means, or give reliable sureties in order to insure their not becoming laborers, while remaining in the Continental United States and Hawaii.

Nor shall passports be issued to persons under category (*b*) of Article I, who have not completed their secondary education.

ARTICLE VI.

When the Governors of Prefecture receive applications for passports for the Continental United States or Hawaii, they shall examine the reputation, career, financial standing and other qualifications of the applicants, and shall, before taking action, communicate with the Director of the Commercial Bureau of the Ministry of Foreign Affairs, setting forth their proposed action on the applications.

Such procedure may be dispensed with in case of those applicants under the provisions of Article II, who hold valid certificates issued by the competent Consular Officers of Japan testifying to their qualifications under said provisions.

ARTICLE VII.

If any persons, after having arrived in the Continental United States or Hawaii, have been persuaded in good faith to change the objects of their travel or residence, specified in their passports, and if such change is not of a nature to make the persons unfit to obtain passports in accordance with the foregoing provisions, the competent Diplomatic or Consular Officers of Japan may, upon their application, certify to the change in the specified objects of their traveller residence.

Such certificates of the Diplomatic or Consular Officers of Japan shall be either embodied in or affixed to the passports.

With reference to Ambassador Morris' remarks urging the deportation of "any of those who might have entered the

United States or Hawaii surreptitously, or who after entry should change their status and become laborers," Ambassador Shidehara offered the following observations:—

1. Cases of surreptitious entry were by no means confined to Japanese. The existing immigration law of the United States contained provisions for the deportation of persons charged with such unlawful act, and these provisions could give no ground of complaint, so long as they were enforced impartially and without distinction of nationality.

2. With respect to those who after entry should change their status and become laborers in disregard of the express conditions on which passports had been issued to them, Ambassador Shidehara did not believe in any practical importance of making special provision for such cases. Exhaustive inquiries conducted by the Japanese authorities into the reputation, career, financial standing and other qualifications, under the revised terms of the Gentlemen's Agreement, of the applicants for passports, and subsequent confirmation by the American authorities of such qualifications of Japanese upon close examination at the ports of arrival, should be sufficient to exonerate from further discriminatory process of supervision, all Japanese holding valid passports and residing in American territory. Theoretically, there might be a few isolated cases in which Japanese, after entry, became laborers in violation of the revised terms of the Gentlemen's Agreement. No measure, however stringent, could serve as an absolute guarantee against transgression, and it would be conceded that the most rigid Chinese Exclusion Act had been

evaded and defied in various ways. In the present instance, however, the willing and wholehearted cooperation existing between the two Governments ensured a far more efficient and satisfactory control of emigrant from Japan than that which could possibly be effected by an Exclusion Act without such co-operation and mutual understanding. The possibility of abuses, if at all, under the new system was, in the opinion of Ambassador Shidehara, so remote that it could safely be dismissed from practical consideration. It did not seem to him, to justify an arrangement under which Japanese alone, after having been duly admitted to American territory, should be single out of all resident aliens and be made liable to deportation for an act not constituting any offence under general laws of the United States.

In commenting on Ambassador Shidehara's concluding remarks Ambassador Morris stated that he agreed with Ambassador Shidehara that the number of persons who would change their occupation would be small. It was precisely because the number so doing would be small and because there would probably be little or no occasion to make use of the right to deport that he desired to have the provision inserted in any legislation that might be necessary. He could not, with any hope of success, recommend a settlement that did not make the Gentlemen's Agreement enforcible at law in the United States. While he, personally, had never seen any reason to doubt the good faith and practical effectiveness of the enforcement of the Gentlemen's Agreement by the Japanese Government, and had frequently so stated in public, he

could not answer the argument that the United States could not enforce it. He knew that the Japanese Government had shown every willingness to correct abuses in the agreement whenever they came to light, and he had every confidence that they would do so in the future.

While prepared to admit that there might be sporadic cases of interference for a short time, he felt that in case a definite settlement were reached the present agitation would very quickly die out. As previously stated he felt certain that a definite settlement could not be made without an understanding that the revised agreement could be enforced in the United States. That point was clear in his mind. Moreover, unless a settlement of some sort were made, the present agitation would continue and become chronic, or at least, recurrent. This was a condition which he would deplore and which he felt should be avoided at all cost. He felt that the practical inconvenience of his provision for enforcement both at the ports and after entry would be inconsiderable, while the psychological effect would be incalculable. There could be no ground for agitation if the arrangements were part of our law, and enforcible as such. With that point definitely settled, there would soon be an end of the difficulties of our present situation.

During the latter part of November and part of December the conversations were interrupted by the meetings of the International Communications Conference.

FIFTEENTH AND SIXTEENTH MEETING— DECEMBER 20 AND 21, 1920.

At these conferences the subject for consideration was a movement which had been started in California to extend the scope of the initiative measure passed in November to include all aliens. Ambassador Morris asked whether the passage of such an act by the Legislature would meet the Japanese objection in regard to discrimination. Obviously the discrimination complained of would be removed by the passage of such an act. Ambassador Shidehara remarked that even if all aliens were to be uniformly deprived of the rights in question, a discrimination against Japanese would still exist in fact, so long as it was open to any aliens other than Japanese to become American citizens in order to acquire such rights. It was not the present intention of Ambassador Shidehara to request modification of the provisions in the Naturalization Law of the United States. But, in the matter of properly rights and of the right to exercise all lawful pursuits, he felt bound to reserve the contention that Japanese be permitted to enjoy the precisely same treatment as that which is extended to other aliens of the most favored nation and that they be assured of the rights, which, if they had been such other aliens, it would have been open to them to acquire by means of naturalization. It seemed to him that the suggestion to apply to all aliens the prohibition imposed by the California Land Laws signified a veiled but persistent

attempt to deprive Japanese of the rights of land tenure by taking advantage of the provisions of the Naturalization Law, while offering an inducement to other aliens to apply for American citizenship. The proposed omission of discriminatory clauses in the California enactments in question would only be a matter of form and not of any practical value to Japanese.

Ambassador Shidehara further stated that his Government attached as much importance to the prevention of any anti-Japanese legislation which might hereafter be proposed in California or in any other States of the American Union; as to the removal of objectionable features of the existing enactments. He was also unable to dismiss from his mind the possibility that measures no less obnoxious than the California Land Laws might eventually be framed in that State or elsewhere, in denial or abridgement of the right of Japanese to exercise any lawful pursuits. Such eventualities could not be successfully met by an undertaking on the part of a certain section of Californians to modify merely the Alien Land Laws of 1913 and 1920 so as to make the prohibition applicable to all aliens. In order to remove from the relations between the two nations all cause of irritation, it would be absolutely essential to put an end to discrimination, in fact as well as in word, and this desirable end could not, in the opinion of Ambassador Shidehara, be attained in any other way than through the mutual guarantee embodied in the proposed treaty.

In commenting on these remarks Ambassador Morris said

that he was greatly surprised at this unexpected attitude of Ambassador Shidehara. He admitted that in view of recent reports of proposed action in the Legislature of some States, there was force in the contention that only a treaty provision could prevent the recurrence of this question in the future, but he desired to point out once more that the only existing issue raised by the legislation of California and that the only ground of protest by that Japanese Government was the alleged discrimination among aliens. But the surprising feature of Ambassador Shidehara's statement was the reservation of the contention that Japanese should be permitted to enjoy precisely the same treatment as that which is extended to aliens of the most favored nation, and that they be assured of the rights which, if they had been such other aliens, it would have been open to them to acquire by means of naturalization. Ambassador Morris stated definitely that he could not agree to any such reservation. He had always understood that Ambassador Shidehara was not urging any objection or making any claim in regard to naturalization of Japanese aliens. In the matter of the most favored nation treatment Ambassador Morris pointed out that any stipulation covering this point would involve questions of treaties which made it an impracticable method of obviating discrimination under enactment by State Legislatures. Ambassador Morris desired to make it perfectly clear that he could not accept as having any validity a claim that Japanese aliens who were resident in the United States were entitled to property rights which might accrue to them if they became citizens. Such a contention

was obviously untenable. It would in effect result in conferring upon Japanese aliens all the rights of American citizenship and none of its obligations. Furthermore, such a contention was simply an indirect way of raising the question of naturalization under our laws, which Ambassador Shidehara had again and again stated he did not desire to raise and concerning which his Government made no complaint. This attitude of the Japanese Government in regard to the naturalization of its subjects by a foreign Power was, Ambassador Morris remarked, the only logical one which any Government could take. Naturalization was a purely domestic question and he felt sure that neither directly nor indirectly would the Japanese Government ask that its subjects be permitted to expatriate themselves. He felt sure that it would claim for itself and concede to others the right of a sovereign State to select those upon whom it chose to confer the rights of citizenship. Ambassador Morris concluded by again emphasizing the fact that they were discussing means of obviating any disclimination between aliens, and not any questions which might arise or any rights which accrue by virtue of citizenship.

Ambassador Shidehara replied that he fully realized, and had already stated at the conferences of October 23 and 26, that the question of naturalization was essentially a matter of domestic policy. It had never been his intention to ask, whether directly or indirectly, that Japanese subjects be permitted to acquire American citizenship. He had only desired to point out that the reported legislative movement in

California to apply to all aliens the restrictions upon rights of land tenure was not calculated to remove wholly and actually the discrimination against Japanese. The discrimination which would thus remain unremedied was, admittedly, not one between aliens. It would nevertheless leave Japanese without the same means of securing the property rights as was open to other aliens.

Mr. MacMurray was present at these conferences.

SEVENTEENTH MEETING—DECEMBER 22, 1920.

The conference was taken up with a discussion of the terms of the treaty submitted by Ambassador Shidehara at the Conferences of October 23 and 26.

Ambassador Morris stated that he had studied the draft carefully, and while he was prepared to consider a treaty provision covering the question of discriminatory treatment of Japanese aliens resident in the United States, he could not agree to the draft as submitted. He was convinced that a most favored nation clause was the wrong method. He felt that it was bad policy thus to incorporate unascertained rights by reference—our country had many treaties, some general and some special, covering all sorts of questions and conferring various kinds of rights. The aim he had in mind was to limit the suggested provisions to the minor issue which had been raised by the California legislation and which might arise by threatened action in other States. He was also anxious to make it quite clear and definite that any such provision must be confined to equal rights *as aliens* and not raise any question even by implication that rights or interests incident to or connected with naturalization were involved. He was therefore constrained to urge upon Ambassador Shidehara the final abandonment of the draft which he had submitted and which followed so closely the Chinda draft of 1913. He urged this on two main grounds, first, his general objection to favored nation clauses in treaties involving matters

other than commerce and navigation, and second, his specific objection to using in the limited field they were discussing general phrases carrying undefined obligations.

Ambassador Shidehara replied that he had no desire, of course, to ask for Japanese rights which might accrue to Canadians and Mexicans for example, by reason of geographical or historical considerations. He quite understood the difficulities which stood in the way of drafting a treaty of this kind. His own draft had been purely tentative and he had suggested it only as a basis for discussion. Above all he wanted it clearly understood that his object was to secure a treaty that contained reciprocal guarantee of non-discrimination. He would be prepared to consider any counter drafts Ambassador Morris cared to submit.

Ambassador Morris stated that he would prepare a draft incorporating his own views and submit it for consideration at a later meeting.

Mr. MacMurray was present at this conference.

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EIGHTEENTH AND NINETEENTH MEETING—JANUARY 5 AND 7, 1921.

At these conferences, Mr. MacMurray and Mr. Nielson, the Solicitor, were both present part of the time. Discussion centered on a tentative draft of a treaty reading as follows:

ARTICLE I.

"The United States engages to accord to Japanese subjects without discrimination the same rights as may now or hereafter be accorded to the citizens or subjects of other countries under any general statutes of the United States or of the several states within their respective jurisdictions in regard to the exercise of calling or occupation, or in regard to the acquisition, possession, enjoyment, disposition, transmission or inheritance, of any real property or any interest therein, other than public lands, either Federal or State.

"It is understood, however, that Japan may not claim, under the preceding paragraph, for Japanese subjects in the United States greater rights than those granted to American citizens in Japan.

ARTICLE II.

"Japan engages to accord to citizens of the United States without discrimination the same rights as may now or hereafter be accorded to the citizens or subjects of

other countries under any general or local law of the Empire in regard to the exercise of any calling or occupation, or in regard to the acquisition, possession, enjoyment, disposition, transmission or inheritance, of any real property or any interest therein, other than public lands.

"It is understood, however, that the United States may not claim, under the preceding paragraph, for American citizens in Japan rights which are denied to Japanese subjects, in the United States."

In commenting on this draft Ambassador Morris stated that it was merely an attempt to obviate discrimination against Japanese subjects in the United States by legislation. He wanted to make clear that he did not feel that he could include a most favored nation treaty clause or public lands within the scope of any treaty. His reasons were, first, in the case of a most favored nation clause, the obligations of the United States, owing to her extensive land borders, were so complicated and involved so many matters that were really purely local in character and of a reciprocal nature that he felt that any extension by implication of these rights to other aliens would inevitably involve litigation. Moreover, a provision of this character would unquestionably in his opinion cause the treaty to fail in the Senate, as the tradition of the United States was against the conclusion of most favored nation treaties.

In regard to public lands the same general objections could be made. A great many of them were regulated by

special acts of Congress, a great many of them were originally parts of Indian reservations, the opening of which had been originally provided for in treaty stipulations with Indian tribes; they also included forest lands and game preserves which he was certain the Senate would be unwilling to consider in any treaty provisions with a foreign power.

There had recently been a good deal of litigation in regard to homesteads on public lands both Federal and State. The laws generally provided that persons who had filed declarations of intention to become citizens could enter upon the land and complete title upon acquiring citizenship. Certain aliens during the war having withdrawn their applications for citizenship could not subsequently become naturalized. Escheat proceedings had then been introduced against numbers of these aliens who had settled on public land and certain powers whose nationals had been affected had protested against this action. If the present tentative draft did not expressly exclude public lands it was certain that there might be complications arising which it was at present impossible to foresee.

Ambassador Shidehara said he understood the position and added that the exclusion of public lands did not seem an important question from the Japanese standpoint. His main objection to the draft treaty now submitted was the provision that neither party could claim for its nationals in the country of the other rights which it did not grant at home. Wide discrepancies existed between Japanese and American laws in the matter of land tenure, and the laws of one country

might create or recognize certain rights which were wholly unknown to the other. For instance, superficies, emphyteusis, or perpetual leasehold, actually enjoyed in Japan by all aliens, found no equivalent in American law, and it was likewise conceivable that the United States had special system of land tenure without any parallel in Japanese law. With regard to such rights, the provision in question seemed to Ambassador Shidehara to open the door to all manner of possible discriminatory treatment which he felt it was the object of the present conversations to find means of avoiding on both sides. While there was no intention on the part of Japan at the present time to discriminate against Americans he felt that it would be much better for both sides if the proposed treaty were clear enough to prevent action of this kind.

He said he would present before the next meeting an additional article which he felt would remove the objection that was constantly made, namely, that persons who were by the laws of the United States still aliens were nevertheless permitted to acquire certain rights by the simple process of declaring an intention of becoming American citizens. They might never finally acquire American citizenship, but nevertheless were entitled to rights which persons who did not or could not make this declaration were not able to obtain. He wished to place Japanese subjects on a footing of entire equality with other aliens in America.

TWENTIETH, TWENTY-FIRST AND TWENTY-SECOND MEETING—JANUARY 10, 20 AND 21, 1921.

At these conferences, at which Mr. MacMurray and Mr. Nielsen were both present part of the time, discussion was confined to the wording of the proposed treaty which Ambassador Morris stated that he felt he could recommend to his Government with some prospect of favorable consideration. He said that he had been in consultation with a number of people upon whose judgment he relied, and that he submitted for Ambassador Shidehara's consideration a draft of the treaty as he had worked it out in conjunction with them. He wanted it understood that he was not at all satisfied with the draftmanship of the document and that there would probably have to be some changes of a verbal character. He had included the article, which appeared here as Article three, which Ambassador Shidehara had referred to at a previous meeting and which he had received since the previous conference.

> " The President of the United States of America and His Majesty the Emperor of Japan being equally desirous of still further strengthening the relations of cordial friendship and good understanding which have so happily existed unbroken between their respective countries, by more clearly establishing and defining certain rights of the citizens or subjects of one country within the territories of the other, have resolved to conclude a supplementary convention for that purpose and have named as their Plenipotentiaries:
>
> " The President of the United States of America;
>
> " His Majesty the Emperor of Japan;
>
> " Who having communicated to each other their respective full powers which were found to be in due and proper form have agreed upon the following articles:

ARTICLE I.

" The United States engages to accord to Japanese subjects lawfully resident in the United States the same rights without discrimination as are now or may hereafter be accorded to the citizens or subjects of other countries under any general statutes of the United States or any laws of the several states or territories of the United States (within their respective jurisdictions) in regard to the exercise of industries, occupations or other lawful pursuits, or in regard to the acquisition, possession, enjoyment, disposition, transmission or inheritance, of any real property or any interest therein, other than public lands, either Federal or State.

ARTICLE II.

" Japan engages to accord to citizens of the United States lawfully resident in the Japanese Empire the same rights without discrimination as are now or may hereafter be acorded to the citizens or subjects of other countries under any laws or ordinances of Japan in

regard to the exercise of industries, occupations or other lawful pursuits, or in regard to the acquisition, possession, enjoyment, disposition, transmission or inheritance, of any real property or any interest therein, other than public lands.

ARTICLE III.

"IT IS WELL UNDERSTOOD THAT THE WORDS 'THE CITIZENS OR SUBJECTS OF OTHER COUNTRIES,' APPEARING IN THE PRECEDING ARTICLES SHALL INCLUDE ALL ALIENS WHO HAVE NOT YET DULY AND FINALLY ACQUIRED THE NATIONALITY OF EITHER CONTRACTING PARTY.

ARTICLE IV.

"This agreement is intended to be supplemental to and co-incident in duration with the Treaty of Commerce and Navigation between the United States and Japan signed at Washington, February 21, 1911, and shall not be construed as abridging any of the rights as provided therein.

"In witness whereof the respective Plenipotentiaries have signed this Treaty in duplicate and have thereunto affixed their seals.

"Done at Washington the day of in the nineteen hundred and twenty-first year of the Christian Era, corresponding to the day of the month of the 10th year of Taisho."

Ambassador Shidehara in commenting on this draft stated that there were two points which he wished to bring out. The first one related to the phrase "lawfully resident." A strict interpretation of that phrase would make it possible to discriminate among non-resident aliens. He did not feel that the purpose of their discussions had been accomplished unless it was made perfectly evident that no discrimination was possible on either side. The second point he wished to raise was the omission of all reference to corporations. The law of California prevented the holding and leasing of land by companies or corporations owned or controlled by aliens ineligible to citizenship. The same objection would apply in this case as in the previous case but the terms of the proposed treaty might be held, contrary to the purpose of the present discussions, as leaving open the question of the legality of discrimination against the activities of corporations owned or controlled by Japanese subjects within the country.

In reply Ambassador Morris stated that he could not undertake to recommend a treaty which applied to aliens other than those resident in our borders. Our courts had constantly contended that the laws and even the Constitution of the United States were not enforceable outside of the limits of the country. He wished to be perfectly frank in so stating. In case the phrase were omitted he did not believe that it would be interpreted to apply to any Japanese subjects not resident in the United States, and he had inserted the provision to avoid ambiguity and possible subsequent discussion on this point.

In regard to corporations, he felt that the insertion of a treaty provision in regard to corporations would be the source of endless trouble. Corporations were the creation of a State and our courts had consistently held that they were entirely subject, while within its borders, to the authority of the State which created them; to attempt to regulate them by treaty would he thought be of no practical benefit, and would be the source of endless legal discussion. We had no precedent for such an action and he was fearful of any attempt to blaze a new trail in this respect.

He would leave the proposed treaty for further consideration until the next meeting, and hoped that an agreed form could be approved at that time.

TWENTY-THIRD MEETING—JANUARY 24, 1921.

At this conference Mr. Morris submitted the final draft of the treaty as follows:

"The President of the United States of America and His Majesty the Emperor of Japan, being desirous of still further strengthening the relations of cordial friendship and good understanding which have so happily existed unbroken between their respective countries, and believing that a clearer establishment and definition of certain rights of the citizens or subjects of each country within the territory of the other will contribute to such a result, have resolved to conclude for that purpose a convention supplemental to the Treaty of Commerce and Navigation of February 21, 1911, between the two countries, and have named as their Plenipotentiaries:

"The President of the United States of America;

"His Majesty the Emperor of Japan;

"Who, having communicated to each other their respective full powers which were found to be in due and proper form, have agreed upon the following articles:

ARTICLE I.

"Japanese subjects lawfully resident within any State or Territory of the United States shall enjoy, in each such State or Territory under the respective local laws thereof or under the general legislation of the United

States, the same rights without discrimination as are accorded by such laws to the citizens or subjects of other countries, with regard to the exercise of industries, occupations, or other lawful pursuits, or with regard to the acquisition, possession, enjoyment, disposition, transmission, or inheritance of any real or personal property, or any interest therein, other than public lands, either Federal or State.

" Reciprocally, citizens of the United States of America, lawfully resident in the Japanese Empire, shall enjoy the same rights without discrimination as are accorded to the citizens or subjects of other countries under any laws or ordinances of Japan, with regard to the exercise of industries, occupations, or other lawful pursuits, or with regard to the acquisition, possession, enjoyment, disposition, transmission, or inheritance of any real or personal property, or any interest therein, other than public lands.

" It is understood that the words ' the citizens or subjects of other countries,' as used in this article, shall include all aliens who have not yet duly and finally acquired the nationality of either Contracting Party.

ARTICLE II.

" The present Convention shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by His Majesty the Emperor of Japan, and the ratifications shall

be exchanged at the City of Washington. The Convention shall take effect from the date of the exchange of ratifications and it shall continue in force along with the said Treaty of February 21, 1911, and shall terminate in the manner prescribed by Article XVII thereof.

" In witness whereof, the respective Plenipotentiaries have signed the present Convention in duplicate and have thereunto affixed their seals.

" Done at the City of Washington the day of in the nineteen hundred and twenty-first year of the Christian Era, corresponding to the day of the month of the tenth year of Taisho.

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_____ "

He stated that he wished to close his conferences today in order to have his report ready for the Secretary of State who, he expected, would be in Washington in the course of a few days.

Ambassador Shidehara said that he appreciated the efforts which Ambassador Morris had made but he still felt that the phrase " lawfully resident " and the ommission of all reference to corporations might be disappointing to his Government. He realized personally the difficulties which confronted Ambassador Morris and was satisfied that he had done what he could to meet the situation as he found it.

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附屬書第九十七號　印度人保留地域ニ於ケル農業制限ニ關スル在米大使國務長官間往復文

No. 1.

Japanese Embassy,
Washington.

Concerning the situation which is causing hardship to Japanese in the locality of the Yakima Indian Reservation in the State of Washington, the Japanese Embassy has received a report from the Japanese Consul at Seattle to the following effect:—

"Some five hundred Japanese are engaged in truck farming in the neighborhood of Wapato, in the Yakima Indian Reservation in the State of Washington, where they raise tomatoes, cantaloupes, water-melons, onions, etc., to which type of agriculture the white people are not inclined.

The leases of these Japanese truck farmers will expire in a few months, and they fear that the renewal of leases will not be allowed by the American authorities. It would, of course, be a severe blow to these Japanese if the leases are not to be renewed, and it would cause a considerable inconvenience to local Indians and Americans, if this supply of garden truck is suddenly cut off.

The Japanese cultivate lands abandoned by white

farmers, and grow vegetables, increasing both the income of the Indian landowners and the food supply of the local consumers, and without working any hardship on the American farmers. The allegation that Japanese occupy the best land, and after wearing it out, abandon it and take up other land is unfounded. About one thousand acres of land, formerly cultivated by the Japanese, the lease of which expired last year, remain unoccupied and fallow. Besides this, a vast tract of land there awaits irrigation in the future. Japanese farmers, therefore, cannot be said to compete with the white people in any way.

The Japanese farmers have borrowed considerable sums of money from local banks and those banks will suffer if their Japanese debtors are driven from these farms.

The Japanese farmers are very anxious to remain there, and earnestly hope that the American authorities will see fit to allow them to renew the leases, or at least to be employed as farm laborers by the Indians. If they are not to be allowed to remain there, they will have to seek new occupation in other places."

In these circumstances, the Japanese Embassy will be grateful to the Department of State if it will be good enough to cause this matter to be submitted to a kindly consideration by the Department controlling such affairs. The Embassy will

highly appreciate any information which that Department may find it convenient to give as to whether or not the earnest desire of these Japanese can be in any way satisfied.

Washington,

October 22, 1923.

No. 2.

Department of State,
Washington.

November 5, 1923.

Excellency:

The Department of State, upon the receipt of the memorandum of the Japanese Embassy No. 80, dated October 22, 1923, in regard to leases of lands in the Yakima Indian Reservation in the State of Washington held by Japanese, referred the document to the appropriate branch of the Government, and is now in receipt of a reply reading in part as follows:

"The lands in question are held in trust by the United States for the use and benefit of the Yakima Indians. The regulations governing the leasing of such lands, approved July 20, 1923, contain the following provision:

'The laws of the State wherein the lands are situated

shall be followed in making and holding leases of restricted allotted, and tribal lands or in assigning such leases.'

"I am informed that the laws of the State of Washington prohibit the leasing of lands within that State to aliens; consequently, under the terms of the regulations to which reference is made any leases to alien Japanese would not be approved by the Department."

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

(Signed) Charles E. Hughes.

His Excellency
Mr. Masanao Hanihara,
Japanese Ambassador.

附屬書第九十九號　一九二三年加州修正土地法

An act to amend an act entitled "An act relating to the rights, powers and disabilities of aliens and of certain companies, associations and corporations with respect to property rights 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," submitted by the initiative and approved by electors November 2, 1920.

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

Section 1. (Section one of an act entitled "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," adopted and approved by the electors of the State of California, November 2, 1920, is hereby amended to read as follows:

Section 1. All aliens eligible to citizenship under the laws of the United States may acquire, possess, enjoy, use, cultivate, occupy, transfer, transmit and inherit real property, or any interest therein, in this state, and have in whole or in part the beneficial use thereof, 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.

Section 2. Section two of said act is hereby amended to read as follows:

Section 2. All aliens other than those mentioned in section one of this act may acquire, possess, enjoy, use, cultivate, occupy and transfer real property, or any interest therein, in this state, and have in whole or in part the beneficial use thereof, 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.

Section 3. Section three of said act is hereby amended to read as follows:

Section 3. Any company, association or corporation organized under the laws of this or any 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 the majority of the issued capital stock is owned by such aliens, may acquire, possess, enjoy, use, cultivate, occupy and transfer real property, or any interest therein, in this state, and have in whole or in part the beneficial use thereof, 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 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, use, cultivate, occupy and transfer agricultural land, or any interest 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 alien is a citizen or subject, and not otherwise.

Section 4. Section four of said act is hereby amended to read as follows:

Section 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 is inhibited from acquiring, possessing, enjoying, using, cultivating, occupying, transferring, transmitting or inheriting, or which such company, association or corporation is inhibited from acquiring, possessing, enjoying, using, cultivating, occupying or transferring, by reason of the provisions of this act. The public administrator of the proper county, or any other competent person or corporation, may be appoined guardian of the estate of a minor citizen whose parents are ineligible to appointment under the provisions of this 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 has not been or is not being administered with due regard to the primary interest of the ward; or

(c) That fact 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.

Section 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, using, cultivating, occupying transferring, transmitting or inheriting 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 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 such 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 provision 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 change the jurisdiction or the rules of practice of courts of justice.

Section 6. Section seven of said act is hereby amended to read as follows:

Section 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 as of the date of such acquiring 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 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, as of the date of such acquisition in violation of the provisions of this act. 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 alien now existing upon or interest in such so long as such real property so acquired shall remain the property of the 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 mortgage or other lien hereafter made or acquired in good faith to secure a debt.

Section 7. Section eight of said act is hereby amended to read as follows:

Section 8. Any leasehold or other interest in real property less than the fee, including cropping contracts which are hereby declared to constitute an 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, as of the date of such acquiring in violation of the provisions of this act. The attorney general or district attorney of the proper county shall institute proceedings to have such escheat adjudged and enforced in the same manner as is 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, as of the date of such acquisition in violation of the provisions of this act, and enter judgment for the state for the amount thereof together with costs. The said judgment so entered shall be considered a lien against the real property in which such leasehold or other interest less than the fee is so acquired in violation of the provisions of this act, which lien shall exist as of the date of such unlawful acquisition. Thereupon the court shall order a sale of the real property covered by such leasehold, or other interest, in the manner provided by section one thousand two 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 as of the date of such acquiring in violation of the provision of said section three of this act, and it is hereby declared that any such share of stock or the interest of any member in such a company, association or corporation so acquired in violation of the provisions of section three of this act is an interest in real property. Such escheat shall be adjudged and enforced in the same manner as is provided in this section for the escheat of a leasehold or other interest in real property less than the fee.

Section 8. Section nine of said act is hereby amended to read as follows:

Section 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 as of the date of such transfer, if the property interest involved is of such a character that an alien mentioned in section two hereof is inhibited from acquiring, possessing, enjoying, using, cultivating, occupying, transferring transmitting or inheriting 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 memberships 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 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 such 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.

Section 9. Section ten of said act is hereby amended to read as follows:

Section 10. If two or more persons conspire to violate any of the provisions of this act 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.

Section 10. Section eleven of said act is hereby amended to read as follows:

Section 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, possession, enjoyment, use, cultivation, occupation, transferring, transmitting or inheriting by aliens of real property in the state.

附屬書第百號　差別的土地法ニ對スル抗議ニ關スル在米大使宛外務大臣訓電要領

Japanese Embassy,
Washington.

SUBSTANCE OF INSTRUCTIONS RECEIVED BY THE JAPANESE AMBASSADOR FROM HIS GOVERNMENT.

The question of the treatment of Japanese subjects lawfully resident in the United States has been the subject of repeated representations on the part of the Japanese Government to the Government of the United States, especially in regard to the California Alien Land Laws of 1913 and 1920.

The position taken by the Japanese Government on this question, which unfortunately still remains unsolved, is well-known to the United States Government. (Vide the Japanese Ambassador's notes or memoranda to the Secretary of State dated respectively May 9, 1913, June 4, 1913, July 3, 1913, August 26, 1913 and January 3, 1921).

The recent decisions of the United States Supreme Court in Porterfield v. Webb and three other kindred cases, which upheld the validity of the laws of California as well as similar legislation of another State, together with the previous decision determining the non-eligibility of Japanese to United

States citizenship, have afforded Jananese subjects resident in the United States no relief whatever, but have confirmed the regorous limitations placed upon them in the enjoyment of those ordinary civil rights which are freely accorded to nationals of many other countries, even of those having no treaty relations or engagements with the United States; a situation which is apparently without parallel in the history of modern commercial intercourse between friendly nations.

Although it would be premature to attempt an accurate estimate of the effect these decisions will have upon the actual interest of Japanese in the United States, or to speculate on the course these particular Japanese might choose to follow in the future, it is sufficiently evident, that, in view of the fact that no small portion of Japanese residents in the Pacific Coast States have hitherto been permitted to find their legitimate living in agriculture and in businesses closely connected therewith, these decisions will seriously affect the living of a great many of them. In spite of all that is and has been said against them, no impartial observer of the facts in the case would deny that these peaceful, law-abiding, energetic and thrifty people have, by their honest labor, contributed in a marked degree to the development and prosperity of local industry. And yet they are made to suffer an unbearable hardship—unbearable because their immediate means of livelihood is jeopardized in the name of the legislative freedom of the people of the community, whose welfare they have served so much to promote, simply because

the exercise of such freedom is found technically defensible under the existing laws of the country.

Furthermore, if the matter were to be left without recourse to some remedial measure other than judicial, it is feared that the so-called anti-Japanese element in the States where its activity has hitherto been permitted to develop freely, will find in the decisions of the highest tribunal of the country encouragement to devise still further means of persecution against Japanese, and it is not unlikely that the sinister influence of such a movement would soon be extended to other States. Events in the political and legislative history of the Pacific Coast and neighboring States in the past few years will furnish sufficient ground for such apprehension.

In these circumstances the Japanese Government feel constrained to call the most earnest attention of the Government of the United States to this matter and invite their friendly consideration of it with a view to some adjustment thereof, which shall be fair and satisfactory to both sides.

It would be needless to recall here the sincere desire and earnest effort of the Japanese Government and people to preserve and draw still closer by all means the important and happy relations of traditional friendship and good neighborhood with the American Government and people. Nothing would be sadder and more disappointing to the Government and people of Japan than to discover a serious difference with their esteemed and trusted friends across the Pacific. That the Japanese Government and people are fully determined to exhaust all just and honorable means to reach a fair and

rational solution of the question which has unhappily been pending between the two countries for some years, is sufficiently demonstrated by the degree of forbearance the Japanese have been exercising through the various stages of the discussions, extending over a period of more than a decade. It is confidently believed that the United States Government entertains no misgiving in this respect. Nor is it doubted that the United States Government may lack proper appreciation of the grave effect the judicial decisions above referred to cannot fail to exercise upon the vital interests of the Japanese lawfully resident in the United States.

It is not the intention of the Japanese Government to venture any comment as to the soundness of the judgment passed by the high and distinguished American tribunal that justly holds its place of honor in the annals of the history of the administration of justice. All that the Japanese Government claim for their subjects in the United States is, as elsewhere, fair and equal treatment, in the matter of enjoyment of ordinary civil rights, such as is given freely to other nationals, to which they believe they are justly entitled, and therefore the Japanese Government are unable to acquiesce in these measures adopted by several States of the Pacific Coast, which in their opinion unfairly and invidiously discriminate against Japanese, for the discrimination is not based on their individual merits, but on the race or nationality to which they belong. In this claim the Japanese Government are only voicing the united sentiment of the whole people of Japan.

At the same time the Japanese Government cannot believe, even for a moment, that the United States Government, which stands at all times for international justice based on broad principles of human right and liberty, should ever approve the practice of singling out the nationals of a friendly Power, which has a very natural and worthy pride of its recognized position in the family of nations, as the object of obnoxious discrimination. On the contrary there is every reason to believe that the United States Government is just as earnest as are the Japanese Government in the desire to maintain and strengthen the friendly relations between the two countries and co-operate in every way possible for betterment of the world's condition in general, which seems to demand today, more than ever, full accord between the two great Powers on the Pacific.

It is with these considerations in mind that the Japanese Government, in a most friendly spirit and with perfect candor, reiterate their request to the United States Government to give the matter its serious consideration, to the end that some steps be taken looking to the removal of the undue hardship inflicted upon Japanese in the United States and to the prevention of a recurrence of such legislative or other form of persecution against them. Having unwavering faith in the well-known sense of justice and fair play of the American people, the Japanese Government cannot but feel confident that this people will not be loath to support their Government in any honorable endeavor it may make in order to satisfy the just and reasonable claim of a friendly nation.

Vexatious as the question may seem at first glance, the Japanese Government remain unshaken in their conviction that it is not one of differences in fundamental principles, but largely an outcome of misunderstanding or misapprehension created by unfortunate local conditions, and is, if approached in a proper spirit, susceptible of a solution which will be consistent with honor and the true interests of both countries.

The Japanese Government earnestly hope that the matter as presented above will commend itself to an early and sympathetic consideration of the United States Government.

Washington,
December 4, 1923.

附屬書第百二號 「クオータ」法

THE QUOTA ACT

[Act of May 19, 1921 (42 Stat. 5), as amended May 11, 1922 (42 Stat. 540)]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the operation of the act entitled "An act to limit the immigration of aliens into the United States," approved May 19, 1921, is extended to and including June 30, 1924.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That as used in this act—

The term "United States" means the United States and any waters, territory, or other place subject to the jurisdiction thereof except the Canal Zone and the Philippine Islands; but if any alien leaves the Canal Zone or any insular possession of the United States and attempts 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.

The word "alien" includes 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 nor citizens of the islands under the jurisdiction of the United States.

The term "immigration act" means the act of February 5, 1917, entitled "An act to regulate the immigration of aliens to, and the residence of aliens in, the United States"; and the term "immigration laws" includes such act and all laws, conventions and treaties of the United States relating to the immigration, exclusion, or expulsion of aliens.

SEC. 2. (a). That the number of aliens of any nationality who may be admitted under the immigration laws to the United States in any fiscal year shall be limited to 3 per centum of the number of foreign-born persons of such nationality resident in the United States as determined by the United States census of 1910. This provision shall not apply to the following, and they shall not be counted in reckoning any of the percentage limits provided in this act: (1) Government officials, their families, attendants, servants, and employees; (2) aliens in continuous transit through the United States; (3) aliens lawfully admitted to the United States who later go in transit from one part of the United States to another through foreign contiguous territory; (4) aliens visiting the United States as tourists or temporarily for business or pleasure; (5) aliens from countries immigration from which is regulated in accordance with treaties or agreements relating solely to immigration; (6) aliens from the so-called Asiatic barred zone, as described in section 3 of the immigration act; (7) aliens who have resided continuously for at least

five years[1] immediately preceding the time of their application for admission to the United States in the Dominion of Canada, Newfoundland, the Republic of Cuba, the Republic of Mexico, countries of Central and South America, or adjacent islands; or (8) aliens under the age of eighteen who are children of citizens of the United States.

(b) For the purposes of this act nationality shall be determined by country of birth, treating as separate countries the colonies or dependencies for which separate enumeration was made in the United States census of 1910.

(c) The Secretary of State, the Secretary of Commerce, and the Secretary of Labor, jointly, shall, as soon as feasible after the enactment of this act, prepare a statement showing the number of persons of the various nationalities resident in the United States as determined by the United States census of 1910, which statement shall be the population basis for the purposes of this act. In case of changes in political boundaries in foreign countries occurring subsequent to 1910 and resulting (1) in the creation of new countries, the Governments of which are recognized by the United States, or (2) in the transfer of territory from one country to another, such transfer being recognized by the United States, such officials, jointly, shall estimate the number of persons resident in the United States in 1910 who were born within the area included in such new countries or in such territory so transferred, and revise the population basis as to each country involved in

(1) Requirement of "five years" was inserted by the act of May 11, 1922, in lieu of 1-year requirement in act of May 19, 1921.

such change of political boundary. For the purpose of such revision and for the purposes of this act generally aliens born in the area included in any such new country shall be considered as having been born in such country, and aliens born in any territory so transferred shall be considered as having been born in the country to which such territory was transferred.

(d) When the maximum number of aliens of any nationality who may be admitted in any fiscal year under this act shall have been admitted all other aliens of such nationality, except as otherwise provided in this act, who may apply for admission during the same fiscal year shall be excluded: *Provided,* That the number of aliens of any nationality who may be admitted in any month shall not exceed 20 per centum of the total number of aliens of such nationality who are admissible in that fiscal year: *Provided further,* That aliens returning from a temporary visit abroad, aliens who are professional actors, artists, lecturers, singers, nurses, ministers of any religious denomination, professors for colleges or seminaries, aliens belonging to any recognized learned profession, or aliens employed as domestic servants, may, if otherwise admissible, be admitted notwithstanding the maximum number of aliens of the same nationality admissible in the same month or fiscal year, as the case may be, shall have entered the United States; but aliens of the classes included in this proviso who enter the United States before such maximum number shall have entered shall (unless excluded by subdivision (a) from being counted) be counted in reckoning the

percentage limits provided in this act: *Provided further,* That in the enforcement of this act preference shall be given so far as possible to the wives, parents, brothers, sisters, children under eighteen years of age, and fiancées, (1) of citizens of the United States, (2) of aliens now in the United States who have applied for citizenship in the manner provided by law, or (3) of persons eligible to United States citizenship who served in the military or naval forces of the United States at any time between April 6, 1917, and November 11, 1918, both dates inclusive, and have been separated from such forces under honorable conditions.

SEC. 3. That the Commissioner General of Immigration, with the approval of the Secretary of Labor, shall, as soon as feasible after the enactment of this act, and from time to time thereafter, prescribe rules and regulations necessary to carry the provisions of this act into effect. He shall, as soon as feasible after the enactment of this act, publish a statement showing the number of aliens of the various nationalities who may be admitted to the United States between the date this act becomes effective and the end of the current fiscal year, and on June 30 thereafter he shall publish a statement showing the number of aliens of the various nationalities who may be admitted during the ensuing fiscal year. He shall also publish monthly statements during the time this act remains in force showing the number of aliens of each nationality already admitted during the then current fiscal year and the number who may be admitted under the provisions of this act during the remainder of such year, but when 75 per centum

of the maximum number of any nationality admissible during the fiscal year shall have been admitted such statements shall be issued weekly thereafter. All statements shall be made available for general publication and shall be mailed to all transportation companies bringing aliens to the United States who shall request the same and shall file with the Department of Labor the address to which such statements shall be sent. The Secretary of Labor shall also submit such statements to the Secretary of State, who shall transmit the information contained therein to the proper diplomatic and consular officials of the United States, which officials shall make the same available to persons intending to emigrate to the United States and to others who may apply.

SEC. 4. That the provisions of this act are in addition to and not in substitution for the provisions of the immigration laws.

SEC. 5. That this act shall take effect and be enforced fifteen days after its enactment (except sections 1 and 3 and subdivisions (b) and (c) of section 2, which shall take effect immediately upon the enactment of this act), and shall continue in force until June 30, 1924,[2] and the number of aliens of any nationality who may be admitted during the remaining period of the current fiscal year, from the date when this act becomes effective to June 30, shall be limited in proportion to the number admissible during the fiscal year 1922.

SEC. 6 [added by act of May 11, 1922]. That it shall

(2) This date was June 30, 1922 in act of May 19, 1921.

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 not admissible under the terms of this act or regulations made thereunder, and if it appears to the satisfaction of the Secretary of Labor that any alien has been so brought, 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 for each alien so brought, 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, such latter sum to be delivered by the collector of customs to the alien on whose account assessed. No vessel shall be granted clearance papers pending the determination of the liability to the payment of such fine, or while the fine remains unpaid; except that clearance may be granted prior to the determination of such question upon the deposit of a sum sufficient to cover such fine. Such fine shall not be remitted or refunded unless it appears to the satisfaction of the Secretary of Labor that such inadmissibility was not known to, and could not have been ascertained by the exercise of reasonable diligence by, such person, or the owner, master, agent, or consignee of the vessel, prior to the departure of the vessel from the last seaport in a foreign country or insular possession of the United States.

附屬書第百四號 「ジョンソン」移民法案

A BILL.

To limit the immigration of aliens into the United States, and to provide a system of selection in connection therewith and for other purposes.

Be it enacted by the Senate and House of representatives of the United States of America in Congress assembled, That this Act may be cited as the "Selective Immigration Act of 1924."

IMMIGRATION CERTIFICATES.

SEC. 2. (a) A consular officers upon the application of any immigrant (as defined in section 3) shall issue to him an immigration certificate which shall specify (1) his nationality; (2) whether he is a quota immigrant (as defined in section 5); a quota relative immigrant (as defined in section 5); or a non-quota immigrant (as defined in section 4); (3) his name, age, sex, and race; the date and place of his birth; and his last residence in the country from which he comes; (4) his ability to speak, read, or write; (5) his occupation; and (6) his "dossier," prison record if any, military record if any, and complete copies of all records concerning him required by the government to which he owes allegiance; and (7) such information as the Secretary shall by regulations prescribe as necessary to the proper enforcement of the immigration laws and the naturalization laws.

(b) The immigrant shall furnish two copies of his photograph to the consular officer, one of which shall be permamently attached by the consular officer to the immigration certificate, and the other of which shall be attached to the certificate in such manner that it can be removed by the immigration officer at the port of inspection and attached to the certificate of arrival.

(c) The validity of an immigration certificate shall expire at the end of such period, specified in the certificate, not exceeding eight months, as shall be by regulations prescribed.

(d) So long as an immigrant is required by any law, or regulations or orders made pursuant to law, to secure the viséing of his passport by a consular officer before being permitted to enter the United States, no immigration certificate shall be issued under this Act in the case of such immigrant unless he is included in the passport of another which is so viséed: *Provided, however,* That in case of rejection of the immigrant by the United States, three-fifths of all passport and record fees shall be refunded.

(e) The manifest or list of passengers required by the immigration laws shall contain a place for entering thereon the date, place of issuance, and number of the immigration certificate of each immigrant. The immigrant shall surrender his immigration certificate to the immigration officer at the port of inspection, who shall at the time of inspection indorse on the certificate the date, the port of entry, and the name of the vessel, if any, on which the immigrant arrived, and require to be placed on each immigration certificate

the thumb print of the immigrant. The immigration certificate shall be transmitted forthwith by the immigration officer in charge at the port of inspection to the Department of Labor under regulations prescribed by the Secretary.

(f) A fee of $1 shall be charged for the issuance of each immigration certificate.

DEFINITION OF "IMMIGRANT."

SEC. 3. When used in this Act the term "immigrant" includes all aliens departing from any place outside the United States, destined for the United States except (1) a government official, his family, attendants, servants, and employees, (2) an alien visiting the United States as a tourist or temporarily for business or pleasure, (3) an alien in continuous transit through the United States, (4) an alien lawfully admitted to the United States who later goes in transit from one part of the United States to another through foreign contiguous territory, and (5) a bona fide alien seaman serving as such on a vessel arriving at a port of the United States and seeking to enter the United States in the pursuit of his calling.

NON-QUOTA IMMIGRANTS.

SEC. 4. When used in this Act the term "non-quota immigrant" means—

(a) An immigrant who is the husband, wife, father, mother, or unmarried minor child, of a citizen of the United States who resides therein at the time of the filing of a petition under section 8;

(b) An immigrant previously lawfully admitted to the United States, who is returning from a temporary visit abroad of not more than one year;

(c) An immigrant who has resided continuously for at least seven years immediately preceding the time of his application for admission to the United States in the Dominion of Canada, Newfoundland, the Republic of Mexico, the Republic of Cuba, countries of Central or South America, or adjacent islands, and his wife and unmarried minor children if accompanying him;

(d) An immigrant who continuously for at least four years immediately preceding the time of his application for admission to the United States has been, and who seeks to enter the United States solely for the purpose of carrying on the vocation of minister of any religious denomination, professor of a college or seminary, or member of any recognized learned profession;

(e) An immigrant who is a highly skilled laborer, if labor of like kind unemployed can not be found in this country, and the question of the necessity of importing such highly skilled labor in any particular instance shall be determined by the Secretary upon the written application of any person interested; such application to be made before the issuance of the immigration certificate, and such determination by the Secretary to be reached after a full hearing and an investigation into the facts of the case;

(f) The wife or unmarried minor child of an immigrant

admissible under subdivision (d) or (e), if accompanying or following to join him;

(g) An immigrant who is a bona fide student over eighteen years of age and who seeks to enter the United States solely for the purpose of study at an accredited college, academy, seminary, or university particularly designated by him and approved by the Secretary; or

(h) An immigrant who served in the military or naval forces of the United States at any time between April 6, 1917, and November 11, 1918, inclusive, and was not discharged therefrom under dishonorable conditions.

QUOTA IMMIGRANTS AND QUOTA RELATIVE IMMIGRANTS.

SEC. 5. (a) When used in this Act the term "quota immigrant" means any immigrant who is not a non-quota immigrant.

(b) When used in this Act the term "quota relative immigrant" who is the husband, wife, or unmarried minor child, of an alien who (1) has been legally admitted to the United States, (2) has resided in the United States continuously for at least two years immediately prior to the time of the filing of the petition under section 8, and (3) has, at least one year prior to the time of the filing of the petition under section 8, declared his intention, in the manner provided by law, to become a citizen of the United States.

APPLICATION FOR IMMIGRATION CERTIFICATE.

SEC. 6. (a) Every immigrant applying for an immigration certificate shall make application therefor in such form as shall be by regulations prescribed.

(b) In the application the immigrant shall state (1) the immigrant's full and true name, and, if different, the name by which he expects to be known in the United States; age, sex, and race; the date and place of birth; last residence in the country from which he comes; whether married or single, and the names and places of residence of wife or husband and minor children, if any; calling or occupation; personal description (including height, complexion, color of hair and eyes, and marks of identification); ability to speak, read, or write; names and addresses of parents, and if neither parent living, then the name and address of his nearest relative in the country from which he comes; port for landing in the United States; final destination, if any, beyond the port of landing; whether he has a ticket through to such final destination; whether going to join a relative or friend, and, if so, what relative or friend and his name and complete address; the purpose for which he is going to the United States; the length of time he intends to remain in the United States; whether or not he intends to abide in the United States permanently and become a citizen thereof; whether ever in prison or almshouse; whether he or either of his parents has ever been in an institution or hospital for the care and treatment of the insane; and whether he or any member of his family has been supported by public charity; his "dossier," his prison record, his military record, and copies of all records concerning him kept by the Govern-

ment to which he owes allegiance; (2) if he claims to be a non-quota immigrant or a quota relative immigrant, the facts on which he bases such claim; and (3) such other information as the Secretary shall by regulations prescribe as necessary to the proper enforcement of the immigration laws and the naturalization laws.

(c) In the application the immigrant shall also state (to such extent as shall be by regulations prescribed) as to each class of individuals excluded from admission to the United States under the immigration laws, that he is not a member of such class; and such classes shall be stated on the blank in such form as shall be by regulations prescribed.

(d) If the immigrant is unable to state that he does not come within any of the excluded classes, but claims to be for any reason exempt from exclusion, he shall state fully in the application the grounds for such alleged exemption.

(e) The application shall be verified by the oath of the immigrant before the consular officer, and shall be permanently attached to the immigration certificate at the time of issuance and become a part thereof.

(f) In the case of an immigrant under sixteen years of age the application may be made and verified by such individual as shall be by regulations prescribed.

(g) A fee of $2 shall be charged for the furnishing and verification of each application.

(h) If the consular agent or any agent of the United States Government having to do with immigration shall, for any reason whatsoever, suspect or doubt the truthfulness of

the statements made by the immigrant, he may require any steamship company, or its responsible agent, which proposes to transport the immigrant to still further verify the oath of the immigrant, and in addition thereto to put up a cash bond of $1,500, which shall be forfeited if said immigrant is denied admission to the United States.

NON-QUOTA IMMIGRATION CERTIFICATES.

SEC. 7. A consular officer may issue an immigration certificate to a non-quota immigrant upon satisfactory proof, under regulations prescribed under this Act, that the applicant is entitled to be regarded as a non-quota immigrant.

ISSUANCE OF CERTIFICATES TO RELATIVES.

SEC. 8. (a) In case of any immigrant claiming in his application for an immigration certificate to be a quota relative immigrant by reason of relationship under the provisions of subdivision (a) of section 4, the consular officer shall not issue such certificate until he has been authorized to do so by the Commissioner General as hereinafter in this section provided.

(b) Any resident of the United States claiming that any immigrant is his relative, and that such immigrant is properly admissible to the United States as a quota relative immigrant, or as a non-quota immigrant under the provisions of subdivision (a) of section 4, may file with the Commissioner General a petition in such form as may be by regulations prescribed, stating (1) the petitioner's name and

address; (2) if a citizen by birth, the date and place of his birth; (3) if a naturalized citizen, the date and place of his admission to citizenship and the number of his certificate, if any; (4) if not a citizen of the United States, the length of time he has resided therein, the date when and the place where he was permanently admitted to the United States, and the date and place of his declaration of intention and the number of the declaration; (5) the name and address of his employer or the address of his place of business or occupation if he is not an employee; (6) the degree of the relationship of the immigrant for whom such petition is made, and the names of all the places where such immigrant has resided prior to and at the time when the petition is filed; (7) that the petitioner is able to and will support the immigrant if necessary to prevent such immigrant from becoming a public charge; and (8) the amount of the petitioner's net income as shown in his last income tax return under Act of Congress.

(c) The petition shall be made under oath before any individual having power to administer oaths and shall be supported by any documentary evidence required by regulations prescribed under this Act. Application may be made in the same petition for admission of more than one individual.

(d) The petition shall be accompanied by the statements of two or more responsible citizens of the United States, to whom the petitioner is known, that to the best of their knowledge and belief the statements made in the petition are

true and that the petitioner is a responsible individual able to support the immigrant or immigrants for whose admission application is made. These statements shall be attested in the same way as the petition.

(e) If the Commissioner General finds the facts stated in the petition to be true, and that the immigrant in respect of whom the petition is made is entitled to be admitted to the United States as a quota relative immigrant, or as a non-quota immigrant under subdivison (a) of section 4, he shall authorize the consular officer with whom the application for the immigration certificate has been filed to issue the immigration certificate.

(f) Nothing in this section shall be construed to entitle an immigrant, in respect of whom a petition under this section is granted, (1) to enter the United States as a non-quota immigrant, if, upon arrival at the port of inspection, he is found not to be a non-quota immigrant, or (2) to enter the United States as a quota relative immigrant, if, upon arrival at the port of inspection, he is found not to be a quota relative immigrant.

PERMIT TO REENTER UNITED STATES AFTER TEMPORARY ABSENCE.

SEC. 9. (a) Any alien about to depart temporarily from the United States may make application to the Commissioner General for a permit to reenter the United States, stating the ength of his intended absence, and the reasons therefor. Such application shall be made under oath, and shall be in such form and contain such information as may be by regu-

lations prescribed, and shall be accompanied by two copies of the applicant's photograph.

(b) If the Commissioner General finds that the alien has been legally admitted to the United States, and that the application is made in good faith, he shall issue the permit, specifying therein the length of time, not exceeding one year, during which it shall be valid. The permit shall be in such form as shall be by regulations prescribed, and shall have permanently attached thereto the photograph of the alien to whom it is issued, together with such other matter as may be deemed necessary for the complete identification of the alien.

(c) On good cause shown the validity of the permit may be extended for such period or periods, not exceeding six months each, and under such conditions as shall be by regulations prescribed.

(d) For the issuance of the permit, and for each extension thereof, there shall be paid a fee of $6, which shall be coverd into the Treasury miscellaneous receipts.

(e) Upon the return of the alien to the United States the permit shall be surrendered to the immigration officer at the port of inspection.

(f) A permit issued under this section shall have no effect under the immigration laws, except to show that the alien to whom it is issued is returning from a temporary visit abroad; but nothing in this section shall be construed as making such permit the exclusive means of establishing that the alien is so returning.

PERCENTAGE LIMITATIONS.

SEC. 10. (a) When used in this Act the term "quota" when used in reference to any nationality means 200, and in addition thereto 2 per centum of the number of foreign-born individuals of such nationality resident in the United States as determined by the United States census of 1890.

(b) There shall be issued to quota immigrants of any nationality (1) no more immigration certificates in any fiscal year than the quota for such nationality, and (2) in each of the first ten calendar months of any fiscal year no more immigration certificates than 10 per centum of the quota for such nationality, except that if such quota is less than 600 the number to be issued in each of the first ten calendar months shall be prescribed by the Commissioner General with the approval of the Secretary, but shall not be in excess of the quota for such nationality, nor less than one-twelfth of the quota. During the eleventh and twelfth months of the fiscal year there may be issued to quota immigrants of any nationality the remainder, if any, of the quota for such nationality for such year, under regulations prescribed under this Act.

(c) There shall be issued to quota relative immigrants of any nationality no more immigration certificates in any fiscal year than the quota for such nationality, and the number of certificates which may be issued shall be apportioned throughout the year in the same manner as provided in subdivision (b) for quota immigrants.

(d) Nothing in this Act shall prevent the issuance (with-

out increasing the total number of immigration certificates which may be issued) of an immigration certificate to an immigrant as a quota immigrant even though he is a quota relative immigrant or a non-quota immigrant.

NATIONALITY.

SEC. 11. (a) For the purposes of this Act nationality shall be determined by the country of birth, treating as separate countries the colonies or dependencies for which separate enumeration was made in the United States census of 1890; except that the nationality of a minor child, accompanied by its alien parent not born in the United States, shall be determined by the country of birth of such parent if such parent is entitled to an immigration certificate.

(b) The Secretary of State, the Secretary of Commerce, and the Secretary of Labor, jointly, shall, as soon as feasible after the enactment of this Act, prepare a statement showing the number of individuals of the various nationalities resident in the United States as determined by the United States census of 1890, which statement shall be the population basis for the purposes of this Act. In case of changes in political boundaries in foreign countries occurring subsequent to 1890 and resulting (1) in the creation of new countries, the Governments of which are recognized by the United States, or (2) in the transfer of territory from one country to another, such transfer being recognized by the United States, such officials, jointly, shall estimate the number of individuals resident in the United States in 1890 who were born within

the area included in such new countries or in such territory so transferred, and revise the population basis as to each country involved in such change of political boundary. For the purpose of such revision and for the purposes of this Act generally, aliens born in the area included in any such new country shall be considered as having been born in such country, and aliens born in any territory so transferred shall be considered as having been born in the country to which such territory was transferred.

EXCLUSION FROM UNITED STATES.

SEC. 12. (a) No immigrant shall be admitted to the United States unless he (1) has an unexpired immigration certificate or was born subsequent to the issuance of the unexpired immigration certificate of the accompanying parent, (2) is of the nationality specified therein, (3) is a non-quota immigrant if specified in the certificate as such, (4) is either a quota relative immigrant or a non-quota immigrant if specified in the certificate as a quota relative immigrant, and (5) is otherwise admissible under the immigration laws.

(b) An immigrant not eligible to citizenship shall not be admitted to the United States unless such immigrant (1) is admissible as a non-quota immigrant under the provisions of subdivision (b), (d), or (g) of section 4, or (2) is the wife or unmarried minor child of an immigrant admissible under such subdivision (d), and is accompanying or following to join him.

(c) The Secretary may admit to the United States any

otherwise admissible immigrant not admissible under clause (1), (2), (3), or (4) of subdivision (a) of this section, if satisfied that such inadmissibility was not known to, and could not have been ascertained by the exercise of reasonable diligence by, such immigrant prior to the departure of the vessel from the last port outside the United States and outside foreign contiguous territory, or, in the case of an immigrant coming from foreign contiguous territory, prior to the application of the immigrant for admission.

(d) Non-quota immigrant or quota relative immigrant shall (except as provided in subdivision (e)) be admitted under subdivision (c) if the entire number of immigration certificates which may be issued to quota immigrants or quota relative immigrants (as the case may be) of the same nationality for the fiscal year has already been issued. If such entire number of immigration certificates has not been issued, then the Secretary, upon the admission of a quota immigrant or a quota relative immigrant under subdivision (c), shall reduce by one the number of immigration certificates which may be issued to quota or quota relative immigrants (as the case may be) of the same nationality during the fiscal year in which such immigrant is admitted; but if the Secretary finds that it will not be practicable to make such reduction before the end of such fiscal year, then such immigrant shall not be admitted.

(e) If in the case of a quota relative immigrant it appears that the entire number of immigration certificates which may be issued to quota relative immigrants of the same nationality for the fiscal year has already been issued, but that the entire number of immigration certificates which may be issued to quota immigrants of the same nationality for the fiscal year has not been issued, then the Secretary may admit such immigrant under the provision of subdivision (c), and shall reduce by one the number of immigration certificates which may be issued to quota immigrants of the same nationality during the fiscal year in which such immigrant is admitted; but if the Secretary finds that it will not be practicable to make such reduction before the end of such fiscal year, then such immigrant shall not be admitted.

(f) Nothing in this section shall authorize the remission or refunding of a fine, liability, to which has accrued under section 15.

(g) An immigrant who has been legally admitted to the United States and who departs therefrom temporarily at frequent intervals may be admitted to the United States, under such conditions as may be by regulations prescribed, without being required to obtain an immigration certificate in respect of each entry into the United States.

DEPORTATION.

SEC. 13. Any alien who at any time after entering the United States is found to have been at the time of entry not entitled under this Act to enter the United States, or to have remained therein for a longer time than permitted under this Act or regulations made thereunder, shall be taken into custody and deported in the same manner as

provided for in sections 19 and 20 of the Immigration Act of 1917.

MAINTENANCE OF EXEMPT STATUS.

SEC. 14. (a) The admission to the United States of an alien excepted from the class of immigrants by clause (2), (3), (4), or (5) of section 3, or declared to be a non-quota immigrant by subdivision (e) or (g) of section 4, shall be for such time as may be by regulations prescribed, and under such conditions as may be by regulations prescribed, including, when deemed necessary, the giving of cash bond, in such sum, and containing such conditions he was as may be by regulations prescribed, to insure that, at the expiration of such time or upon failure to maintain the status under which admitted, he will depart from the United States, together with, in case of an immigrant admitted as a skilled laborer under subdivision (e) of section 4, his wife and children admitted as non-quota immigrants under subdivision (f) of section 4.

(b) For the purposes of this section the marriage of an immigrant admitted as a student under subdivision (g) of section 4 shall be considered to be a failure to maintain the status under which admitted.

PENALTY FOR ILLEGAL TRANSPORTATION.

SEC. 15. (a) It shall be unlawful for any person, including any transportation company, or the owner, master, agent, charterer, or consignee of any vessel, to bring to the

United States by water from any place outside thereof (other than foreign contiguous territory) (1) any immigrant who does not have an unexpired immigration certificate, (2) any quota relative immigrant having a certificate specifying him as a non-quota immigrant, or (3) any quota immigrant having a certificate specifying him as a non-quota immigrant or a quota relative immigrant.

(b) If it appears to the satisfaction of the Secretary that any immigrant has been so brought, such person, or transportation company, or the master, agent, owner, charterer, 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 $2,000 for each immigrant so brought, and in addition a sum equal to that paid by such immigrant for his transportation from the initial point of departure, indicated in his ticket, to the port of arrival, such latter sum to be delivered by the collector of customs to the immigrant on whose account assessed. No vessel shall be granted clearance papers pending the determination of the liability to the payment of such fine, or while the fine remains unpaid, except that clearance may be granted prior to the determination of such question upon the deposit of a sum sufficient to cover such fine.

(c) Such fine shall not be remitted or refunded, unless it appears to the satisfaction of the Secretary that such person, and the owner, master, agent, charterer, and consignee of the vessel, prior to the departure of the vessel from the last port outside the United States, did not know, and could

not have ascertained by the exercise of reasonable diligence (1) that the individual transported was an immigrant, if the fine was imposed for bringing an immigrant without an unexpired certificate, or (2) that the individual transported was a quota immigrant, if the fine was imposed for bringing a quota immigrant whose certificate specified him as being a non-quota immigrant or a quota relative immigrant, or (3) that the individual transported was a quota relative immigrant, if the fine was imposed for bringing a quota relative immigrant whose certificate specified him as being a non-quota immigrant.

ENTRY FROM FOREIGN CONTIGUOUS TERRITORY.

SEC. 16. The Commissioner General, with the approval of the Secretary, shall have power to enter into contracts with transportation lines for the entry and inspection of aliens coming to the United States from or through foreign contiguous territory. In prescribing rules and regulations 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 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 ports of the United States. After this section takes effect no alien applying for admission from foreign contiguous territory (except an alien previously lawfully admitted to the United States who is returning from a temporary visit to such territory) shall be permitted to enter the United States unless upon proving that he was brought to such territory by a transportation company which has 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 time of his application for admission to the United States.

UNUSED IMMIGRATION CERTIFICATES.

SEC. 17. An immigration certificate in addition to the number provided in section 10 may not be issued to a quota immigrant or a quota relative immigrant of any nationality even though a quota immigrant or a quota relative immigrant of such nationality having an immigration certificate is excluded from admission to the United States under the immigration laws and deported, or does not apply for admission to the United States before the expiration of the validity of the certificate; or even though an alien of such nationality having an immigrant certificate issued to him as a quota immigrant or a quota relative immigrant is found to be a non-quota immigrant or is found not to be an immigrant.

CERTIFICATES OF ARRIVAL.

SEC. 18. Every immigrant at the time of his admission

to the United States shall be given a certificate of arrival issued in such form as shall be prescribed by the Secretary, containing the name of the immigrant, his age and occupation, personal description (including height, complexion, and color of hair and eyes), fingerprints, his place of birth, last residence, intended place of residence in the United States, date of arrival, name of the vessel, if any, upon which he arrived, and whether or not the immigrant is permanently admitted to the United States. The certificate shall have permanently attached thereto the photograph of the immigrant provided for in section 2. Such certificate of arrival, if it specifies that the immigrant has been permanently admitted to the United States, may, under regulations prescribed by the Secretary, be used by the immigrant in lieu of the certificate required to be filed with his petition for naturalization by the fourth paragraph of the second subdivision of section 4 of the Act entitled "An Act to establish a Bureau of Immigration and Naturalization, and to provide for a uniform rule for the naturalization of aliens throughout the United States," approved June 19, 1906.

ALIEN SEAMAN.

SEC. 19. (a) No alien excluded from admission into the United States under the immigration laws and employed on board any vessel arriving in the United States from any place outside thereof, shall be permitted to land in the United States, except temporarily for medical treatment, or pursuant to regulations prescribed under this Act providing for the

ultimate removal or deportation of such alien from the United States. The failure of the owner, charterer, agent, consignee, or master of such vessel to detain on board any alien so employed until the immigration officer in charge at the port of arrival has inspected such alien and issued to him a landing card, or the failure of such owner, charterer, agent, consignee, or master to detain such alien on board after such inspection or to deport such alien, if required by such immigration officer or the Secretary to do so, shall render such owner, charterer, agent, consignee, or master liable to a penalty not exceeding $2,500 for each alien in respect to whom such failure occurs, for which sum the vessel shall be liable and may be seized and proceeded against by way of libel in the appropriate United States court.

(b) Section 32 of the Immigration Act of 1917 is repealed.

(c) No vessel coming to the United States with seamen among its crew not eligible to citizenship in the United States shall be permitted to depart, or shall be granted clearance, unless it has in its crew at least as many seamen not eligible to citizenship as the number of such seamen with which it arrived. Departure or attempted departure after clearance in violation of this section shall render the owner, charterer, agent, consignee, or master of such vessel liable to a penalty of not less than $3,000 nor more than $10,000 multiplied by the amount by which the number of aliens, not eligible to citizenship, in the crew at the time of arrival exceeds the number of such aliens in the crew at the time of departure

or attempted departure; and such fine shall not be remitted.

SEC. 20. (a) Upon the arrival after June 30, 1924, of any vessel in the United States, it shall be the duty of the owner, agent, charterer, consignee, or master thereof to deliver to the principal immigration officer in charge at the port arrival, in respect to each alien seaman employed on such vessel who was not shipped or engaged on such vessel at a port of the United States, a landing card in duplicate, stating the position such alien holds in the ship's company, when and where he was shipped or engaged, and whether he is to be paid off and discharged at the port of arrival, and such other information as may be by regulations prescribed, and having permanently attached thereto a photograph of such alien.

(b) If the alien seaman after examination is found temporarily admissible to the United States under the immigration laws and regulations made thereunder, the immigration officer shall cause a fingerprint of the alien to be placed upon each copy of the landing card, and indorse upon each copy the date and place of arrival, the name of the vessel, and the time during which the landing card shall be valid. Upon the landing of the alien one copy of the landing card shall be delivered to him, and the other transmitted forthwith to the Department of Labor under regulations prescribed under this Act.

(c) Any alien who has received a landing card under this section and who departs from the United States shall, prior to his departure, surrender such card to the master

of the vessel, who shall, before the departure of the vessel, deliver such card to such individual as may be by regulations prescribed.

(d) Landing cards shall be printed on distinctive safety paper prepared and issued, under regulations prescribed under this Act at the expense of the owner, agent, consignee, charterer, or master of the vessel. The Secretary of Labor, with the cooperation of the Secretary of State, shall provide a means of obtaining blank landing cards outside the United States.

(e) The owner, agent, consignee, charterer, or master of any vessel who violates any of the provisions of this section shall pay to the collector of customs for the customs district in which the port of arrival is located the sum of $500 for each alien in respect to whom the violation occurs; 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 remains unpaid, except that clearance may be granted prior to the determination of such question upon the deposit of a sum sufficient to cover such fine.

PREPARATION OF DOCUMENTS.

SEC. 21. Immigration certificates, certificates of arrival, and permits issued under section 9, shall be printed on distinctive safety paper, and shall be prepared and issued under regulations prescribed under this Act.

OFFENSES IN CONNECTION WITH DOCUMENTS.

SEC. 22. (a) Any person who knowingly (1) forges, counterfeits, alters, or falsely makes any immigration certificate, certificate of arrival, landing card or permit, (2) uses, attempts to use, possesses, obtains, accepts, or receives any immigration certificate, certificate of arrival, landing card or permit, knowing it to be forged, counterfeited, altered, or falsely made, or to have been procured by means of any false claim or statement, or to have been otherwise procured by fraud or unlawfully obtained; or who, except under direction of the Secretary or other proper officer, knowingly (3) possesses any blank immigration certificate, certificate of arrival, or permit, (4) engraves, sells, brings into the United States, or has in his control or possession any plate in the likeness of a plate designed for the printing of immigration certificates, certificates of arrival, landing cards or permits, (5) makes any print, photograph, or impression in the likeness of any immigration certificate, certificate of arrival, landing card or permit or (6) has in his possession a distinctive paper which has been adopted by the Secretary for the printing in immigration certificates, certificates of arrival, landing cards or permits, shall, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both.

(b) Any individual who (1) when applying for an immigration certificate or permit, or for admission to the United States, personates another, or falsely appears in the name of

a deceased individual, or evades the immigration laws by appearing under an assumed or fictitious name, or (2) sells or otherwise disposes of, or offers to sell or otherwise dispose of, an immigration certificate, certificate of arrival, landing card or permit, to any person not authorized by law to receive such document, shall, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both.

RULES AND REGULATIONS.

SEC. 23. The Commissioner General, with the approval of the Secretary, shall prescribe rules and regulations for the enforcement of the provisions of this Act; but all such rules and regulations, in so far as they relate to the administration of this Act by consular officers, shall be subject to the approval of the Secretary of State.

ACT TO BE IN ADDITION TO IMMIGRATION LAWS.

SEC. 24. The provisions of this Act are in addition to and not in substitution for the provisions of the immigration laws, and shall be enforced as a part of such laws, and all the penal or other provisions of such laws, not inapplicable, shall apply to and be enforced in connection with the provisions of this Act.

STEAMSHIP FINES UNDER 1917 ACT.

SEC. 25. Section 9 of the Immigration Act of 1917 is amended by adding after the third sentence thereof a new

sentence to read as follows: "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, 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".

GENERAL DEFINITIONS.

SEC. 26. As used in this Act:—

(a) The term "United States", when used in a geographical sense, means the States, the Territories of Alaska and Hawaii, the District of Columbia, Porto Rico, and the Virgin Islands;

(b) The term "alien" includes any individual 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, nor citizens of the islands under the jurisdiction of the United States;

(c) The term "eligible to citizenship," when used in reference to any individual, does not include an individual who is debarred from becoming a citizen of the United States under section 14 of the Act entitled "An Act to execute certain treaty stipulations relating to Chinese," approved May 6, 1882, or under section 2 of the Act entitled "An Act to authorize the President to increase temporarily the Military Establishment of the United States," approved May 18, 1917, as amended, or under law amendatory of, supplementary to, or in substitution for, any of such sections;

(d) The term "immigration certificate" means a certificate issued by a consular officer under the provisions of this Act, together with the application therefor;

(e) The term "consular" means any consular or diplomatic officer of the United States designated, under regulations prescribed under this Act, for the purpose of issuing immigration certificates under this Act. In case of the Canal Zone and the insular possessions of the United States the term "consular officer" means an officer designated by the President for the purpose of issuing immigration certificates under this Act;

(f) The term "Immigration Act of 1917" means the Act of February 5, 1917, entitled "An Act to regulate the immigration of aliens to, and the residence of aliens in, the United States;

(g) The term "immigration laws" includes such Act, this Act, and all laws, conventions, and treaties of the United States relating to the immigration, exclusion, or expulsion of aliens; corporations, and associations;

(h) The term "person" includes individuals, partnerships, corporations and associations;

(i) The term "Secretary" means the Secretary of Labor;

(j) The term "Commissioner General" means the Commissioner General of Immigration;

(k) The term "application for admission" has reference to the time of the application for admission to the United States and not to the time of the application for the issuance of the immigration certificate;

(l) The term "permit" means a permit issued under section 9;

(m) The term "landing card" means a landing card issued under section 20;

(n) The term "unmarried", when used in reference to any individual as of any time, means an individual who at such time is not married, whether or not previously married.

TIMES OF TAKING EFFECT.

SEC. 27. (a) Sections 2, 7, 12, 13, 14, 15 and 18, subdivisions (b) and (c) of section 10, shall take effect on July 1, 1924, except that immigration certificates and permits may be issued prior to that date, which shall not be valid for admission to the United States before July, 1, 1924. In the case of quota immigrants and of quota relative immigrants, respectively, of any nationality, the number of certificates to be issued prior to July 1, 1924, shall not be in excess of 10 per centum of the quota for such nationality, and the number of certificates so issued shall be deducted from the

number which may be issued during the month of July, 1924.

(b) The remainder of this Act shall take effect upon its enactment.

附屬書第百五號　歸化不能外國人ノ子ノ國籍ニ關スル憲法改正決議案

(1) The Senate concurrent resolution 1 introduced by Mr. Jones on December 7th.

Resolved by the Senate (House of Representatives concurring) that the following article is hereby proposed to the several states as an amendment to the constitution, which shall become valid to all intents and purposes as a part of the constitution when ratified by the legislatures of three-fourths of the several states:

ARTICLE XIX

SEC. 7. No child hereafter born in the United States of foreign parentage shall be a citizen or shall be eligible to citizenship in the United States unless both parents are eligible to become citizens of the United States, and no person heretofore born in the United States shall, from the adoption of this article, be a citizen of the United States or be eligible to become such a citizen unless both parents were citizens of the United States or eligible to become such citizens.

(2) The House joint resolution 12 introduced by Mr. Johnson on December 5th.

Proposing an amendment to the constitution of the United States. Resolved by the Senate and the House of

Representatives of the United States of America in Congress assembled (two-thirds of each house concurring therein), that the following article is proposed as an amendment to the constitution of the United States, which shall be valid to all intents and purposes as a part of the constitution when ratified by the legislatures of three-fourths of the several states:

ARTICLE.....

SECTION ONE. A person born in the United States, of alien parents who are not eligible to become citizens of the United States, shall not be eligible to citizenship and shall not be held and considered as a citizen of the United States."

(3) The House joint resolution 17 introduced by Mr. Raker on December 5. Proposing an amendment to the constitution of the United States. Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurrent therein) that the following article is proposed as an amendment to the constitution of the United States, which shall be valid to all intents and purposes as a part of the constitution when ratified by the legislatures of three-fourths of the several states:

ARTICLE.....

SECTION ONE. No child hereafter born in the United

States of foreign parentage shall be eligible to the citizenship in the United States unless both parents are eligible to become citizens of the United States.

附屬書第百七號　一月十五日附國務長官「ヒュ－ズ」宛埴原大使覺書

MEMORANDUM

The Japanese Ambassador at his interview with the Honorable the Secretary of State on December 13th, 1923, took occasion to call the Secretary's attention to certain provisions of the bill which was introduced in the House of Representatives on December 5, 1923, by Mr. Johnson of Washington, entitled "A Bill to limit the immigration of aliens into the United States, and to provide a system of selection in connection therewith, and for other purposes," in their relations to the existing commercial treaty between Japan and the United States and to certain understandings of the two Governments. A similar measure is before the Senate also, which was introduced in that body on December 6, 1923 by Mr. Lodge of Massachusetts.

In the bill there is, among other provisions, one which excludes from admissible classes aliens not eligible to United States citizenship (Sec. 12, b, H.R. 101).

By the decision of the United States Supreme Court of November 13, 1922 in the case Takao Ozawa vs. the United States, non-eligibility of Japanese nationals to United States citizenship is determined.

If therefore the provision above referred to is to be per-

mitted to remain in the measure when it becomes a law, it means an open declaration on the part of the United States, that Japanese nationals as such, no matter what their individual merits may be, are inadmissible into the United States, while other alien nationals are admissible on certain individual qualifications equally applicable to them all. It is not easy to understand that this would not be an arbitrary and unjust discrimination reflecting upon the character of the people of a nation, which is entitled to every respect and consideration of the civilized world. Nor does it seem to harmonize with the well-known principles of America's foreign policy, which stands for international justice and is opposed to discriminations against American nationals.

It may be recalled that in concluding the so-called "Gentlemen's Agreement" of 1907, which involved no small sacrifices on the part of the Japanese Government, and in making the Declaration of February 21, 1911 which is appended to the Commercial Treaty of 1911, between Japan and the United States, the sole desire of the Japanese Government was to relieve the United States Government from the painful embarrassment of giving offence to the just national pride of a friendly nation, which is ever so earnest and has spared no effort in preserving the friendship of the United States.

In agreeing to the terms of the so-called Gentlemen's Agreement, which were arranged in deference to the suggestions and wishes of the United States Government, and in concluding the Commercial Treaty of 1911, one important object of which for Japan, was, it will be remembered, to avoid such discriminatory legislation as that now under consideration, the American Government showed that it fully understood and appreciated the Japanese opposition to any form of discrimination against Japanese people as such, and virtually assured the Japanese Government that, in return for these sacrifices, made in order to preserve the self-respect of their nation, the United States Government will see to it that there shall be no discriminatory legislation on the part of the United States against Japanese people as such.

For instance in the note of February 25, 1911, informing the Japanese Ambassador at Washington of the ratification of the Treaty of Commerce and Navigation between the United States and Japan, the Secretary of State stated in part as follows:

> "By the Resolution of the Senate the advice and consent of the Senate to the ratification of the Treaty 'is given with the understanding, which is to be made a part of the instrument of ratification, that the Treaty shall not be deemed to repeal or affect any of the provisions of the Act of Congress entitled "An Act to regulate the Immigration of Aliens into the United States", approved February 20, 1907.
>
> Inasmuch as this Act applies to the immigration of aliens into the United States from all countries and makes no discrimination in favor of any country, it is not perceived that your Government will have any objection to the understanding being recorded in the instrument of ratification."

The meaning of the last paragraph above quoted seems to require no elucidation.

To speak frankly, the mere fact, that such a provision is introduced in the proposed measure, in apparent disregard of these most friendly and effective endeavors on the part of the Japanese Government to meet the needs and wishes of the American Government and people, is mortifying enough to the Government and people of Japan. They are, however, exercising the utmost forbearance at this moment, and in so doing they confidently rely upon the high sense of justice and fair-play of the American Government and people, which, if properly approached, will readily understand who no such discriminatory provision as above-referred to should be allowed to become a part of the law of the land.

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

The important question is whether Japan as a nation is or is not entitled to the proper respect and consideration of other nations. In other words, the Japanese Government ask of the United States Government simply for that proper consideration ordinarily given by one nation to the self-respect of another which after all forms the basis of amicable international intercourse throughout the civilized world.

The Japanese Ambassador begs to request, under instructions from His Majesty's Minister for Foreign Affairs, that the Secretary of State will be good enough to give his early and sympathetic consideration to the matter as above presented. Further he ventures to hope that the memorandum which he had the honor of handing the Secretary of State on December 4, 1923, may be considered in connection with the present one, for while they relate to two distinct matters, in their essence both representations may be applied with equal cogency to the one as to the other.

January 15, 1924.

附屬書第百十三號　四月十日附國務長官「ヒュ
ーズ」宛埴原大使抗議書

Japanese Embassy,
Washington, April 10, 1924.

Sir:

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

The Gentlemen's Agreement is an understanding with the United States Government by which the Japanese Government voluntarily understood to adopt and enforce certain administrative measures designed to check the emigration to the United States of Japanese laborers. It is in no way intended as a restriction on the sovereign right of the United States to regulate its immigration. This is shown by the fact that the existing immigration Act of 1917, for instance, is applied to Japanese as to other aliens.

It was because of the fact that discriminatory immigration legislation on the part of the United States would naturally wound the national susceptibilities of the Japanese

people, that after thorough but most friendly and frank discussions between the two Governments, the Gentlemen's Agreement was made for the purpose of relieving the United States from the possible unfortunate necessity of offending the national pride of a friendly nation.

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

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

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

governed by various rules of detection in order to prevent fraud. The Japanese Government accepted the definition of laborer as given in the United States Executive Order of April 8, 1907.

2. Passports are to be issued by a limited number of specially authorized officials only under close supervision of the Foreign Office which has the supreme control of the matter and is equipped with the necessary staff for the administration of it. These officials shall make thorough investigation when application for passports is made by students, merchants, tourists, or the like to ascertain whether the applicant is likely to become a laborer and shall enforce the requirement that such person shall either be supplied with adequate means to insure the permanence of his status as such or that surety be given therefor. In case of any doubt as to whether such applicant is or is not entitled to a passport, the matter shall be referred to the Foreign Office for decision. Passports to laborers previously domiciled in the United States will be issued only upon production of certificate from Japanese consular officers in the United States and passports to the parents, wives, and children of such laborers will be issued only upon production of such consular certificate and of duly certified copy of official registry of members of such laborers' families in Japan. Utmost circumspection is exercised to guard against fraud.

3. Issuance of passports to so-called picture brides has been stopped by the Japanese Government since March 1,

1920, although it had not been prohibited under the terms of the Gentlemen's Agreement.

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

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

6. The Japanese Government is further increasing strict control over emigration of Japanese laborers to foreign territories contiguous to the United States in order to prevent their surreptitious entry into the United States.

A more condensed substance of these terms is published in the annual report of the United States Commissioner General of Immigration for 1908, 1909 and 1910, on pages 1256, 121 and 1245 respectively.

As I stated above, the Japanese Government have been most faithfully observing the Gentlemen's Agreement in every detail of its terms, which fact is, I believe, well known to the United States Government. I may be permitted in this connection to call your attention to the official figures published in the annual reports of the United States Commissioner General of Immigration showing the increase or decrease of Japanese population in the continental United States by immigration and emigration. According to these reports (see "Table B" of the annual reports), in the years 1908-1923, the total numbers of Japanese admitted to and departed from

the continental United States were, respectively, 120,317 and 111,626. In other words, the excess of those admitted over those departed was, in fifteen years, only 8681, that is to say the annual average of 578. It is important to note that in these 8681 are included not only those who are covered by the terms of the Gentlemen's Agreement but all other classes of Japanese such as merchants, students, tourists, government officials etc. These figures collected by the United States immigration authorities seem to me to show conclusively the successful operation of the Gentlemen's Agreement. Besides this, there is, of course, the increase through birth of the Japanese population in the United States. This has nothing to do with either the Gentlemen's Agreement or the immigration laws.

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

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

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

ordinarily given by one nation to the self-respect of another, which, after all, forms the basis of amicable international intercourse throughout the civilized world.

It is indeed impossible for my Government and people and I believe it would be impossible also for your Government and those of your people who had made a careful study of the subject to understand why it should be necessary for your country to enact as the law of the land such a clause as section 12, (b), of the House Immigration Bill. As is justly pointed out in your letter of February 8, 1924, to the Chairman of the House Committee on Immigration, it is idle to insist that the provision is not aimed at the Japanese, for the proposed measure (section 25) continues in force your existing legislation regulating Chinese immigration and the barred zone provisions of your immigration laws which prohibit immigration from certain other portions of Asia, to say nothing about the public statements of the sponsors and supporters of that particular provision as to its aim; in other words, the manifest object of the said section 12, (b), is to single out Japanese as a nation stigmatizing them as unworthy and undesirable in the eyes of the American people, and yet the actual result of that particular provision in the proposed bill, if it becomes the law as intended, would be to exclude only 146 Japanese per year. On the other hand, the Gentlemen's Agreement is, in fact, accomplishing all that can be accomplished by the Japanese exclusion clause except for those 146. It is indeed difficult to believe that it can be the intention of the people of your country who always stand for

high principles of justice and fairplay in the intercourse of nations to resort, in order to secure the annual exclusion of 146 Japanese, to a measure which would not only seriously offend the just pride of a friendly nation that has been always earnest and diligent in its efforts to preserve the friendship of your people, but would also seem to involve the question of the good faith and therefore of the honor of their Government or at least of its executive branch.

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

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

(Signed) Masanao Hanihara.

Honorable Charles E. Hughes,
Secretary of State.

附屬書第百十四號　四月十日附埴原大使抗議書ニ對スル國務長官「ヒューズ」ノ回答書

Department of State,
Washington, April 10, 1924.

Excellency,

I have the honor to acknowledge the receipt of the note of April 10, in which, referring to the recent report of the Committee on Immigration and Naturalization of the House of Representatives (report No. 350, March 24, 1924), you took occasion to state your Government's understanding of the purport of the so-called "Gentlemen's Agreement," and your Government's practice and purposes with respect to immigration from Japan to this country. I am happy to take note of your statement concerning the substance of the so-called "Gentlemen's Agreement" resulting from the correspondence which took place between our two Governments in 1907, as modified by the additional undertaking of the Japanese Government with regard to the so-called "picture brides" which became effective four years ago. Your statement of the essential points constituting the Gentlemen's Agreement corresponds with my own understanding of that arrangement.

Inasmuch as your note is directed towards clearing away any possible misapprehension as to the nature and purpose

of the "Gentlemen's Agreement," I am taking occasion to communicate copies of it, as also of my present reply, to the chairmen of the appropriate committees of the two Houses of Congress.

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

(Signed) Charles E, Hughes.

His Excellency Mr. Masanao Hanihara,
Japanese Ambassador.

附屬書第百十五號　四月十日附抗議書ノ用語ニ關スル四月十七日附國務長官「ヒューズ」宛埴原大使書翰

Japanese Embassy,
Washington, April 17, 1924.

My dear Secretary,

In reading the Congressional record of April 14, 1924, I find that the letter I addressed to you on April 10, a copy of which you sent to the Chairman of the Senate Committee on Immigration, was made a subject of discussion in the Senate.

In the record it is reported that some of the senators expressed the opinion which was apparently accepted by many other members of that body that my letter contained "a veiled threat." As it appears from the record that it is the phrase "grave consequences" which I used in the concluding part of my letter that some of the senators construed as "a veiled threat." I may be permitted to quote here full text of the sentence which contained the words in question.

"Relying upon the confidence you have been good enough to show me at all times, I have stated or rather repeated all this to you very candidly and in a most friendly spirit, for I realize, as I believe you do, the grave consequences which the enactment of the measure retaining that particular pro-

vision would inevitably bring upon the otherwise happy and mutually advantageous relations between our two countries."

Frankly I must say I am unable to understand how the two words read in their context could be construed as meaning anything like a threat. I simply tried to emphasize the most unfortunate and deplorable effect upon our traditional friendship which might result from the adoption of a particular clause in the proposed measure. It would seriously impair the good and mutually helpful relationship and disturb the spirit of mutual regard and confidence which characterizes our intercourse of the last three quarters of a century and which was considerably strengthened by the Washington Conference, as well as by the most magnanimous sympathy shown by your people in the recent calamity in my country. Whereas there is otherwise every promise of hearty co-operation between Japan and the United States of America which is believed to be essential to the welfare not only of themselves but of the rest of the world it would create or at least tend to create an unhappy atmosphere of ill-feeling and misgiving over the relations between our two countries.

As the Representative of my country whose supreme duty is to maintain and if possible to draw still closer the bond of friendship so happily existing between our two peoples, I honestly believe such effects as I have described to be "grave consequences." In using these words which I did quite ingenuously, I had no thought of being in any way disagreeable or discourteous and still less of conveying "a veiled threat." On the contrary, it was in a spirit of the most sincere respect,

confidence and candor that I used these words which spirit I hope is manifest throughout my entire letter, for it was in that spirit that I wrote you. I never suspected that these words used as I used them would ever afford an occasion for such comment or interpretation as has been given them.

You know I am sure that nothing could be farther from my thought than to give cause for offence to your people or their Government and I have not the slightest doubt that you have no such misunderstanding as to either the spirit in which I wrote the letter in question to you or the meaning I intended for the phrase that I used.

In view, however, of what has transpired in the course of the public discussion in the Senate, I feel constrained to write you, as a matter of record, that I did not use the phrase in question in such sense as has been attributed to it.

I am, my dear Mr. Secretary,

Yours very truly,

(Signed) M. Hanihara.

Honorable Charles E. Hughes,
Secretary of State.

附屬書第百十六號　四月十七日附埴原大使書翰ニ對スル國務長官「ヒューズ」ノ回答書

Department of State,
Washington, April 18, 1924.

My dear Mr. Ambassador:

I am gratified to receive your letter of the 17th instant with your frank and friendly explanation of the intent of your recent note in relation to the pending Immigration Bill.

It gives me pleasure to be able to assure you that reading the words "grave consequences" in the light of their context, and knowing the spirit of friendship and understanding you have always manifested in our long association, I had no doubt that these words were to be taken in the sense you have stated, and I was quite sure that it was far from your thought to express or imply any threat. I am happy to add that I have deeply appreciated your constant desire to promote the most cordial relations between the peoples of the two countries.

(Signed) Charles E. Hughes.

His Excellency Mr. Masanao Hanihara,
Ambassador of Japan.

附屬書第百十七號　排日條項實施延期ニ關スル大統領ノ第一次修正意見

On and after March 1, 1926, no alien ineligible to citizenship shall be admitted to the United States unless such alien (1) is admissible as a non-quota immigrant under the provisions of subdivision (b), (d) or (g) of Section 4, or (2) is the wife or the unmarried child under eighteen years of age, of an immigrant admissible under such subdivision (d), and is accompanying or following to join him, (3) is not an immigrant as defined in Section 3, provided, however, that the provisions of this paragraph shall not apply to the national of those countries with which the United States of America, after the enactment of this Act, shall have entered into treaties, by and with the advice and consent of the Senate, for the restriction of immigration.

附屬書第百十八號　排日條項實施延期ニ關スル大統領ノ第二次修正意見

Provided, that this subdivision shall not take effect as to exclusion until March 1, 1925, before which time the President is requested to negotiate with the Japanese Government in relation to the abrogation of the present arrangement on this subject.

附屬書第百二十二號　移民法ニ關スル五月三十一日附日本政府抗議書

Japanese Embassy,

Washington, May 31, 1924.

Sir,

In pursuance of instructions from my Government, I have the honor to present to you herewith a Memorandum enunciating the position of Japan on the subject of the discriminatory provisions against Japanese which are embodied in Section 13 (c) of the Emigration Act of 1924, approved May 26, 1924.

I am instructed further to express the confidence that this communication will be received by the American Government in the same spirit of friendliness and candor in which it is made.

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

(Signed) Masanao Hanihara.

Honorable Charles E. Hughes,

Secretary of State.

MEMORANDUM.

The Japanese Government are deeply concerned by the enactment in the United States of an act entitled the "Immigration Act of 1924." While the measure was under discussion in Congress they took the earliest opportunity to invite the attention of the American Government to a discriminatory clause embodied in the Act, namely Section 13 (c), which provides for the exclusion of aliens ineligible to citizenship, in contradistinction to other classes of aliens, and which is manifestly intended to apply to Japanese. Neither the representations of the Japanese Government, nor the recommendations of the President and of the Secretary of State were heeded by Congress, and the clause in question has now been written into the statutes of the United States.

It is, perhaps, needless to state that international discriminations in any form and on any subject, even if based on purely economic reasons, are opposed to the principles of justice and fairness upon which the friendly intercourse between nations must, in its final analysis, depend. To these very principles the doctrine of equal opportunity now widely recognized, with the unfailing support of the United States, owed its being. Still more unwelcome are discriminations based on race. The strong condemnation of such practice evidently inspired the American Government in 1912 in denouncing the commercial treaty between the United States and Russia, pursuant to the resolution of the House of Repre-

sentatives of December 31, 1911, as a protest against the unfair and unequal treatment of aliens of a particular race in Russia. Yet discrimination of a similar character is expressed by the new statute of the United States. The Immigration Act of 1924, considered in the light of the Supreme Court's interpretation of the naturalization laws, clearly establishes the rule that the admissibility of aliens to the United States rests, not upon individual merits or qualifications, but upon the division of race to which applicants belong. In particular, it appears that such racial distinction in the Act is directed essentially against Japanese, since persons of other Asiatic races are excluded under separate enactments of prior dates, as was pointed out in the published letter of the Secretary of State of February 8, 1924, to the Chairman of the Committee on Immigration and Naturalization of the House of Representatives.

It has been repeatedly asserted in defence of these discriminatory measures in the United States that persons of the Japanese race are not assimilable to American life and ideals. It will, however, be observed, in the first place, that few immigrants of a foreign stock may well be expected to assimilate themselves to their new surroundings within a single generation. The history of Japanese immigration to the United States in any appreciable number dated but from the last few years of the Nineteenth Century. The period of time is too short to permit of any conclusive judgment being passed upon the racial capabilities of these immigrants

in the matter of assimilation, as compared with alien settlers of the races classed as eligible to American citizenship.

It should further be remarked that the process of assimilation can thrive only in a genial atmosphere of just and equitable treatment. Its natural growth is bound to be hampered under such a pressure of invidious discriminations as that to which Japanese residents in some States of the American Union have been subjected, both at law and in practice, for nearly twenty years. It seems hardly fair to complain of the failure of foreign element to merge in a community, while that community chooses to keep them apart from the rest of its membership. For these reasons the assertion of Japanese non-assimilability seems at least premature, if not fundamentally unjust.

Turning to the survey of commercial treaties between Japan and the United States, Article II of the Treaty of 1894 contained a clause to the following effect:—

> " 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 trade, the immigration of laborers, police and public security, which are in force or may hereafter be enacted in either of the two countries."

When the Treaty was revised in 1911, this provisory clause was deleted from the new Treaty at the request of the Japanese Government, retaining the general rule which assures the liberty of entry, travel, and residence; and, at the same time, the Japanese Government made the following

declaration, dated February 21, 1911, which is attached to the Treaty:—

> "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 laborers to the United States."

In proceeding to the exchange of ratifications of the revised Treaty, the Acting Secretary of State communicated to the Japanese Ambassador on February 25, 1911, that the advice and consent of the Senate to the ratification of the Treaty "is given with the understanding, which is to be made part of the instrument of ratification, that the Treaty shall not be deemed to repeal or affect any of the provisions of the Act of Congress entitled 'An Act to Regulate Immigration of Aliens into the United States,' approved February 20, 1907." The Acting Secretary of State then added:—

> "Inasmuch as this Act applies to the immigration of aliens into the United States from all countries and makes no discrimination in favor of any country it is not perceived that your Government will have any objection to the understanding being recorded in the instrument of ratification."

Relying upon the assurance thus given by the American Government of the absence of any statutory discrimination against Japanese, the Japanese Government consented to have the above quoted understanding recorded in the instrument of ratification.

The foregoing history will show that throughout these negotiations, one of the chief preoccupations of the Japanese Government was to protect their nationals from discriminatory immigration legislation in the United States. That position of Japan was fully understood and appreciated by the American Government, and it was with these considerations in view that the existing Treaty was signed and the exchange of its ratifications effected. In this situation, while reserving for another occasion the presentation of the question of legal technicality, whether and how far the provisions of Section 13 (c) of the Immigration Act of 1924 are inconsistent with the terms of the Treaty of 1911, the Japanese Government desire now to point out that the new legislation is in entire disregard of the spirit and circumstances that underlie the conclusion of the Treaty.

With regard to the so-called "Gentlemen's Agreement," it will be recalled that it was designed, on one hand, to meet the actual requirements of the situation as perceived by the American Government, concerning Japanese immigration, and, on the other, to provide against the possible demand in the United States for a statutory exclusion which would offend the just susceptibilities of the Japanese people. The arrangement came into force in 1908. Its efficiency has been

proved in fact. The figures given in the Annual Reports of the United States Commissioner-General of Immigration authoritatively show that during the fifteen years from 1908 to 1923, the net excess, in number, of Japanese admitted to Continental United States, over those who departed was no more than 8681 all told,—including not only immigrants of the laboring class, but also merchants, students, and other non-laborers and non-immigrants, the number of whom naturally increases with the growth of commercial, intellectual, and social relations between the two countries. If even so limited a number should in any way be found embarrassing to the United States, the Japanese Government have already manifested their readiness to revise the existing arrangement with a view to further limitation of emigration. Unfortunately, however, the sweeping provisions of the new Act, clearly indicative of discrimination against Japanese, have made it impossible for Japan to continue the undertakings assumed under the Gentlemen's Agreement. An understanding of friendly cooperation reached after long and comprehensive discussions between the Japanese and American Governments has thus been abruptly overthrown by legislative action on the part of the United States. The patient, loyal, and scrupulous observance by Japan for more than sixteen years, of these self-denying regulations, in the interest of good relations between the two countries, now seems to have been wasted.

It is not denied that, fundamentally speaking, it lies within the inherent sovereign power of each state to limit

and control immigration to its own domains. But when, in the exercise of such right, an evident injustice is done to a foreign nation in disregard of its proper self-respect, of international understandings or of ordinary rules of comity, the question must necessarily assume an aspect which justifies diplomatic discussion and adjustment. Accordingly, the Japanese Government consider it their duty to maintain and to place on record their solemn protest against the discriminatory clause in Section 13 (c) of the Immigration Act of 1924, and to request the American Government to take all possible and suitable measures for the removal of such discrimination.

附屬書第百二十三號　日本政府抗議書ニ對スル六月十六日附米國政府ノ回答

Department of State,
Washington, June, 16, 1924.

Excellency:

I have the honor to acknowledge the receipt of your note under date of May 31st containing a memorandum, stating the position of the Japanese Government with respect to the provision of section 13 (c) of the Immigration Act of 1924.

I take pleasure in noting your reference to the friendliness and candor in which your communication has been made and you may be assured of the readiness of this Government to consider in the same spirit the views you have set forth.

At the time of the signing of the Immigration bill, the President issued a statement, a copy of which I had the privilege of handing to you, gladly recognizing the fact that the enactment of this provision "does not imply any change in our sentiment of admiration and cordial friendship for the Japanese people, a sentiment which has had and will continue to have abundant manifestation." Permit me to state briefly the substance of the provision. Section 13 (c) related to all aliens ineligible to citizenship. It establishes certain exceptions, and to these classes the exclusion provision does not apply, to wit:

Those who are not immigrants as defined in Section 3 of the Act, that is "(1) a government official, his family, attendants, servants, and employees, (2) an alien visiting the United States temporarily as a tourist or temporarily for business or pleasure, (3) an alien in continuous transit through the United States, (4) an alien lawfully admitted to the United States who later goes in transit from one part of the United States to another through foreign contiguous territory, (5) a bona fide alien seaman serving as such on a vessel arriving at a port of the United States and seeking to enter temporarily the United States solely in the pursuit of his calling as a seaman, and (6) an alien entitled to enter the United States solely to carry on trade under and in pursuance of the provisions of a present existing Treaty of Commerce and Navigation.

Those who are admissible as non-quota immigrants under the provisions of subdivision (b) (d) or (e) of Section 4, that is "(b) An immigrant previously lawfully admitted to the United States, who is returning from a temporary visit abroad"; "(d) An immigrant who continuously for at least two years immediately preceding the time of his application for admission to the United States has been, and who seeks to enter the United States solely for the purpose of carrying on the vocation of minister of any religious denomination or professor of a college, academy, seminary, or university, and his wife, and his unmarried children under 18 years of age, if accompanying or following to join him; or (e) An immigrant who is a bona fide student at least 15 years of age and who seeks to enter the United States solely for the pur-

pose of study at an accredited school, college, academy, seminary or university, particularly designated by him and approved by the Secretary of Labor, which shall have agreed to report to the Secretary of Labor the termination of attendance of each immigrant student and if any such institution of learning fails to make such reports promptly the approval shall be withdrawn."

Also, the wives, or unmarried children under 18 years of age, of immigrants admissible under subdivision (d) of Section 4, above quoted.

It will thus be observed that, taking these exceptions into account, the provision in question does not differ greatly in its practical operation, or in the policy which it reflects, from the understanding embodied in the Gentlemen's Agreement under which the Japanese Government has co-operated with the Government of the United States in preventing the emigration of Japanese laborers to this country. We fully and gratefully appreciate the assistance which has thus been rendered by the Japanese Government in the carrying out of this long established policy and it is not deemed to be necessary to refer to the economic considerations which have inspired it. Indeed, the appropriateness of that policy, which has not evidenced any lack of esteem for the Japanese people, their character and achievement, has been confirmed rather than questioned by the voluntary action of your Government in aiding its execution.

The point of substantial difference between the existing arrangement and the provision of the Immigration Act is that

the latter has expressed, as the President has stated, 'the determination of the Congress to exercise its prerogative in defining by legislation the control of immigration instead of leaving it to international arrangement.'

It is not understood that this prerogative is called in question, but, rather, your Government expressly recognizes that 'it lies within the inherent sovereign power of each state to limit and control immigration to its own domains', an authority which it is believed the Japanese Government has not failed to exercise in its own discretion with respect to the admission of aliens and the conditions and location of their settlement within its borders.

While the President would have preferred to continue the existing arrangement with the Japanese Government, and to have entered into negotiations for such modifications as might seem to be desirable, this Government does not feel that it is limited to such an international arrangement or that by virtue of the existing understanding, or of the negotiations which it has conducted in the past with the Japanese Government, it has in any sense lost or impaired the full liberty of action which it would otherwise have in this matter. On the contrary, that freedom with respect to the control of immigration, which is an essential element of sovereignty and entirely compatible with the friendly sentiments which animate our international relations, this Government in the course of these negotiations always fully reserved.

Thus in the treaty of Commerce and Navigation concluded with Japan in 1894 it was expressly stipulated in Art. 2:

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

It is true that at the time of the negotiation of the Treaty of 1911 the Japanese Government desired that the provision above quoted should be eliminated and that this Government acquiesced in that proposal in view of the fact that the Japanese Government had, in 1907-8, by means of the Gentlemen's Agreement, undertaken such measures of restriction as it was anticipated would prove adequate to prevent any substantial increase in the number of Japanese laborers in the United States. In connection with the treaty revision of 1911, the Japanese Government renewed this undertaking in the form of a Declaration attached to the Treaty. In acquiescing in this procedure, however, this Government was careful to negative any intention to derogate from the full right to exercise in its discretion control over immigration. In view of the statements contained in your communication with respect to these negotiations I feel that I should refer to the exchange of views then had.

Your will recall that, in a memorandum of October 19, 1910, suggesting a basis for the treaty revisions then in contemplation, the Japanese Embassy stated:

"The measures which the Imperial Government have enforced for the past two and a half years in regulation of the

question of emigration of laborers to the United States, have, it is believed, proved entirely satisfactory and far more effective than any prohibition of immigration would have been. Those measures of restraint were undertaken voluntarily, in order to prevent any dispute or issue between the two countries on the subject of labor immigration, and will be continued, it may be added, so long as the condition of things calls for such continuation.

"Accordingly, having in view the actual situation, the Imperial Government are convinced that the reservation in question is not only not necessary, but that it is an engagement which, if continued, is more liable to give rise to misunderstandings than to remove difficulties. In any case it is a stipulation which, not unnaturally, is distasteful to national sensibilities. In these circumstances the Imperial Government desire in the new treaty to suppress entirely the reservation above mentioned, and to leave, in word as well as in fact, the question to which it relates, for friendly adjustment between the two Governments independently of any conventional stipulations on the subject. In expressing that desire they are not unmindful of the difficulties under which the United States labor in the matter of immigration and they will accordingly, if so desired, be willing to make the proposed treaty terminable at any time upon six months' notice.

"The Japanese Embassy is satisfied that in the presence of such a termination clause the Contracting States would actually enjoy greater liberty of action so far as immigration

is concerned, than under the existing reservation on the subject, however liberally construed."

Replying to these suggestions the Department of State declared in its memorandum sent to the Japanese Ambassador on January 23, 1911, that it was prepared to enter into negotiations for a New Treaty of Commerce and Navigation on the following basis:

"The Department of State understands, and proceeds upon the understanding, that the proposal of the Japanese Government made in the above-mentioned memorandum is that the clause relating to immigration in the existing treaty be omitted for the reason that the limitation and control which the Imperial Japanese Government has enforced for the past two and a half years in regulation of emigration of laborers to the United States, and which the two Governments have recognized as a proper measure of adjustment under all the circumstances, are to be continued with equal effectiveness during the life of the new treaty, the two Governments when necessary co-operating to this end; the treaty to be made terminable upon six months' notice.

"It is further understood that the Japanese Government will at the time of signature of the Treaty make a formal declaration to the above effect, which may in the discretion of the Government of the United States be made public.

"In accepting the proposal as a basis for the settlement of the question of immigration between the two countries, the Government of the United States does so with all necessary reserves and without prejudice to the inherent sovereign

right of either country to limit and control immigration to its own domains or possessions."

On February 8, 1911, in a memorandum informing the Department of State of the readiness of the Japanese Government to enter upon the negotiations which had been suggested by the Embassy and to which the Department had assented subject to the reservation above quoted, the Japanese Embassy stated that

> "The Imperial Government concur in the understanding of the proposal relating to the question of immigration set forth in the above-mentioned note of January 23 last."

It was thus with the distinct understanding that it was without prejudice to the inherent sovereign right of either country to limit and control immigration to its own domains or possessions that the Treaty of 1911 was concluded. While this Government acceded to the arrangement by which Japan undertook to enforce measures designed to obviate the necessity of a statutory enactment, the advisability of such an enactment necessarily remained within the legislative power of this Government to determine. As this power has now been exercised by the Congress in the enactment of the provision in question, this legislative action is mandatory upon the executive branch of the Government and allows no latitude for the exercise of executive discretion as to the carrying out of the legislative will expressed in the statute.

It is provided in the Immigration Act that the provision of section 13 (c), to which you have referred, shall take effect

on July 1, 1924. Inasmuch as the abstention on the part of the United States from such an exercise of its right of statutory control over immigration was the condition upon which was predicated the undertaking of the Japanese Government contained in the Gentlemen's Agreement of 1907-8 with respect to the regulation of emigration of laborers to the United States, I feel constrained to advise you that this Government cannot but acquiesce in the view that the Government of Japan is to be considered released as from the date upon which Section 13 (c) of the Immigration Act comes into force from further obligation by virtue of that understanding.

In saying this I desire once more to emphasize the appreciation on the part of this Government of the voluntary cooperation of your Government in carrying out the Gentlemen's Agreement and to express the conviction that the recognition of the right of each Government to legislate in control of immigration should not derogate in any degree from the mutual good will and cordial friendship which have always characterized the relations of the two countries.
Accept, Excellency, the renewed assurances of my highest consideration.

(Signed) Charles E. Hughes.

His Excellency Mr. Masanao Hanihara
Japanese Ambassador.

附屬書第百二十四號　同法ニ對スル政府ノ態度ヲ更ニ表明セル在米代理大使宛外務大臣訓電

It has seemed evident to the Japanese Government that, for the time being, any further exchange of correspondence between the two Governments in continuation of the discussion on the subject of Section 13 (c) of the Immigration Act of 1924 would only tend to arouse popular agitation in both countries and to complicate further the situation without serving any useful purpose. For this reason they have refrained from making a reply to the note of the Secretary of State under date of 16th June.

The Japanese Government have not, at any stage of the question, failed to appreciate the sentiments of friendliness and sympathy consistently manifested by the American Government, and they are gratified to find reassuring proof of such sentiments in the last note of the Secretary of State.

There is, however, nothing in the development of the question that tends to dispel from the minds of the Japanese people the painful impression that injustice has been done them by the recent legislation. The Act of Congress is admittedly mandatory upon the administrative branch of the American Government, but the Japanese Government are unable to concede that the incident in its international aspect is now

closed. They feel it their duty to maintain the protest filed in the note of the Japanese Ambassador of May 31, as long as the grounds of that protest remain unadjusted.

You will invite the attention of the Secretary of State to the foregoing position of the Japanese Government on the subject. You will add that in the interest of cordial friendship between the two nations, so earnestly fostered by both Governments, it is believed to be of the utmost importance that some satisfactory solution of the pending difficulty be reached as soon and as far as practicable.

The above communication is to be made orally, but, in order to prevent any possible misunderstanding, you will leave with the Secretary of State a copy of this telegram.

附屬書第百二十五號　一九二四年米國移民法

An Act to limit the immigration of aliens into the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Immigration Act of 1924."

IMMIGRATION VISAS.

SEC. 2. (a) A consular officer upon the application of any immigrant (as defined in section 3) may (under the conditions hereinafter prescribed and subject to the limitations prescribed in this Act or regulations made thereunder as to the number of immigration visas which may be issued by such officer) issue to such immigrant an immigration visa which shall consist of one copy of the application provided for in section 7, visaed by such consular officer. Such visa shall specify (1) the nationality of the immigrant; (2) whether he is a quota immigrant (as defined in section 5) or a non-quota immigrant (as defined in section 4); (3) the date on which the validity of the immigration visa shall expire; and (4) such additional information necessary to the proper enforcement of the immigration laws and the naturalization laws as may be by regulations prescribed.

(b) The immigrant shall furnish two copies of his photograph to the consular officer. One copy shall be permanently

attached by the consular officer to the immigration visa and the other copy shall be disposed of as may be by regulations prescribed.

(c) The validity of an immigration visa shall expire at the end of such period, specified in the immigration visa, not exceeding four months, as shall be by regulations prescribed. In the case of an immigrant arriving in the United States by water, or arriving by water in foreign contiguous territory on a continuous voyage to the United States, if the vessel, before the expiration of the validity of his immigration visa, departed from the last port outside the United States and outside foreign contiguous territory at which the immigrant embarked, and if the immigrant proceeds on a continuous voyage to the United States, then, regardless of the time of his arrival in the United States, the validity of his immigration visa shall not be considered to have expired.

(d) If an immigrant is required by any law, or regulations or orders made pursuant to law, to secure the visa of his passport by a consular officer before being permitted to enter the United States, such immigrant shall not be required to secure any other visa of his passport than the immigration visa issued under this Act, but a record of the number and date of his immigration visa shall be noted on his passport without charge therefor. This subdivision shall not apply to an immigrant who is relieved, under subdivision (b) of section 13, from obtaining an immigration visa.

(e) The manifest or list of passengers required by the immigration laws shall contain a place for entering thereon the date, place of issuance, and number of the immigration

visa of each immigrant. The immigrant shall surrender his immigration visa to the immigration officer at the port of inspection, who shall at the time of inspection indorse on the immigration visa the date, the port of entry, and the name of the vessel, if any, on which the immigrant arrived. The immigration visa shall be transmitted forthwith by the immigration officer in charge at the port of inspection to the Department of Labor under regulations prescribed by the Secretary of Labor.

(f) No immigration visa shall be issued to an immigrant if it appears to the consular officer, from statements in the application, or in the papers submitted therewith, that the immigrant is inadmissible to the United States under the immigration laws, nor shall such immigration visa be issued if the application fails to comply with the provisions of this Act, nor shall such immigration visa be issued if the consular officer knows or has reason to believe that the immigrant is inadmissible to the United States under the immigration laws.

(g) Nothing in this Act shall be construed to entitle an immigrant, to whom an immigration visa has been issued, to enter the United States, if, upon arrival in the United States, he is found to be inadmissible to the United States under the immigration laws. The substance of this subdivision shall be printed conspicuously upon every immigration visa.

(h) A fee of $9 shall be charged for the issuance of each immigration visa, which shall be covered into the Treasury as miscellaneous receipts.

DEFINITION OF "IMMIGRANT."

SEC. 3. When used in this Act the term "immigrant" means any alien departing from any place outside the United States destined for the United States, except (1) a government official, his family, attendants, servants, and employees, (2) an alien visiting the United States temporarily as a tourist or temporarily for business or pleasure, (3) an alien in continuous transit through the United States, (4) an alien lawfully admitted to the United States who later goes in transit from one part of the United States to another through foreign contiguous territory, (5) a bona fide alien seaman serving as such on a vessel arriving at a port of the United States and seeking to enter temporarily the United States solely in the pursuit of his calling as a seaman, and (6) an alien entitled to enter the United States solely to carry on trade under and in pursuance of the provisions of a present existing treaty of commerce and navigation.

NON-QUOTA IMMIGRANTS.

SEC. 4. When used in this Act the term "non-quota immigrant" means—

(a) An immigrant who is the unmarried child under 18 years of age, or the wife, of a citizen of the United States who resides therein at the time of the filing of a petition under section 9;

(b) An immigrant previously lawfully admitted to the United States, who is returning from a temporary visit abroad;

(c) An immigrant who was born in the Dominion of Canada, Newfoundland, the Republic of Mexico, the Republic of Cuba, the Republic of Haiti, the Dominican Republic, the Canal Zone, or an independent country of Central or South America, and his wife, and his unmarried children under 18 years of age, if accompanying or following to join him;

(d) An immigrant who continuously for at least two years immediately preceding the time of his application for admission to the United States has been, and who seeks to enter the United States solely for the purpose of, carrying on the vocation of minister of any religious denomination, or professor of a college, academy, seminary, or university; and his wife, and his unmarried children under 18 years of age, if accompanying or following to join him; or

(e) An immigrant who is a bona fide student at least 15 years of age and who seeks to enter the United States solely for the purpose of study at an accredited school, college, academy, seminary, or university, particularly designated by him and approved by the Secretary of Labor, which shall have agreed to report to the Secretary of Labor the termination of attendance of each immigrant student, and if any such institution of learning fails to make such reports promptly the approval shall be withdrawn.

QUOTA IMMIGRANTS.

SEC. 5. When used in this Act the term "quota immigrant" means any immigrant who is not a non-quota immi-

grant. An alien who is not particularly specified in this Act as a non-quota immigrant or a non-immigrant shall not be admitted as a non-quota immigrant or a non-immigrant by reason of friendship to any individual who is so specified or by reason of being excepted from the operation of any other law regulating or forbidding immigration.

PREFERENCES WITHIN QUOTAS.

SEC. 6. (a) In the issuance of immigration visas to quota immigrants preference shall be given—

(1) To a quota immigrant who is the unmarried child under 21 years of age, the father, the mother, the husband, or the wife, of a citizen of the United States who is 21 years of age or over; and

(2) To a quota immigrant who is skilled in agriculture, and his wife, and his dependent children under the age of 16 years, if accompanying or following to join him. The preference provided in this paragraph shall not apply to immigrants of any nationality the annual quota for which is less than 300.

(b) The preference provided in subdivision (a) shall not in the case of quota immigrants of any nationality exceed 50 per centum of the annual quota for such nationality. Nothing in this section shall be construed to grant to the class of immigrants specified in paragraph (1) of subdivision (a) a priority in preference over the class specified in paragraph (2).

(c) The preference provided in this section shall, in the case of quota immigrants of any nationality, be given in the calendar month in which the right to preference is established, if the number of immigration visas which may be issued in such month to quota immigrants of such nationality has not already been issued; otherwise in the next calendar month.

APPLICATION FOR IMMIGRATION VISA.

SEC. 7. (a) Every immigrant applying for an immigration visa shall make application therefor in duplicate in such form as shall be by regulations prescribed.

(b) In the application the immigrant shall state (1) the immigrant's full and true name; age, sex, and race; the date and place of birth; places of residence for the five years immediately preceding his application; whether married or single, and the names and places of residence of wife or husband and minor children, if any; calling or occupation; personal description (including height, complexion, color of hair and eyes, and marks of identification); ability to speak, read, and write; names and addresses of parents, and if neither parent living, then the name and address of his nearest relative in the country from which he comes; port of entry into the United States; final destination, if any, beyond the port of entry; whether he has a ticket through to such final destination; whether going to join a relative or friend, and, if so, what relative or friend and his name and complete address; the purpose for which he is going to the United States; the length of time he intends to remain in the United

States; whether or not he intends to abide in the United States permanently; whether ever in prison or almshouse; whether he or either of his parents has ever been in an institution or hospital for the care and treatment of the insane; (2) if he claims to be a non-quota immigrant, the facts on which he bases such claim; and (3) such additional information necessary to the proper enforcement of the immigration laws and the naturalization laws, as may be by regulations prescribed.

(c) The immigrant shall furnish, if available, to the consular officer, with his application, two copies of his "dossier" and prison record and military record, two certified copies of his birth certificate, and two copies of all other available public records concerning him kept by the Government to which he owes allegiance. One copy of the documents so furnished shall be permanently attached to each copy of the application and become a part thereof. An immigrant having an unexpired permit issued under the provisions of section 10 shall not be subject to this subdivision. In the case of an application made before September 1, 1924, if it appears to the satisfaction of the consular officer that the immigrant has obtained a visa of his passport before the enactment of this Act, and is unable to obtain the documents referred to in this subdivision without undue expense and delay, owing to absence from the country from which such documents should be obtained, the consular officer may relieve such immigrant from the requirements of this subdivision.

(d) In the application the immigrant shall also state (to

such extent as shall be by regulations prescribed) whether or not he is a member of each class of individuals excluded from admission to the United States under the immigration laws, and such classes shall be stated on the blank in such form as shall be by regulations prescribed, and the immigrant shall answer separately as to each class.

(e) If the immigrant is unable to state that he does not come within any of the excluded classes, but claims to be for any legal reason exempt from exclusion, he shall state fully in the application the grounds for such alleged exemption.

(f) Each copy of the application shall be signed by the immigrant in the presence of the consular officer and verified by the oath of the immigrant administered by the consular officer. One copy of the application, when visaed by the consular officer, shall become the immigration visa, and the other copy shall be disposed of as may be by regulations prescribed.

(g) In the case of an immigrant under eighteen years of age the application may be made and verified by such individual as shall be by regulations prescribed.

(h) A fee of $1 shall be charged for the furnishing and verification of each application, which shall include the furnishing and verification of the duplicate, and shall be covered into the Treasury as miscellaneous receipts.

NON-QUOTA IMMIGRATION VISAS.

SEC. 8. A consular officer may, subject to the limitations provided in sections 2 and 9, issue an immigration visa to a

non-quota immigrant as such upon satisfactory proof, under regulations prescribed under this Act, that the applicant is entitled to be regarded as a non-quota immigrant.

ISSUANCE OF IMMIGRATION VISAS TO RELATIVES.

SEC. 9. (a) In case of any immigrant claiming in his application for an immigration visa to be a non-quota immigrant by reason of relationship under the provisions of subdivision (a) of section 4, or to be entitled to preference by reason of relationship to a citizen of the United States under the provisions of section 6, the consular officer shall not issue such immigration visa or grant such preference until he has been authorized to do so as hereinafter in this section provided.

(b) Any citizen of the United States claiming that any immigrant is his relative, and that such immigrant is properly admissible to the United States as a non-quota immigrant under the provisions of subdivision (a) of section 4 or is entitled to preference as a relative under section 6, may file with the Commissioner General a petition in such form as may be by regulations prescribed, stating (1) the petitioner's name and address; (2) if a citizen by birth, the date and place of his birth; (3) if a naturalized citizen, the date and place of his admission to citizenship and the number of his certificate, if any; (4) the name and address of his employer or the address of his place of business or occupation if he is not an employee; (5) the degree of the relationship of the immigrant for whom such petition is made, and the

names of all the places where such immigrant has resided prior to and at the time when the petition is filed; (6) that the petitioner is able to and will support the immigrant if necessary to prevent such immigrant from becoming a public charge; and (7) such additional information necessary to the proper enforcement of the immigration laws and the naturalization laws as may be by regulations prescribed.

(c) The petition shall be made under oath administered by any individual having power to administer oaths, if executed in the United States, but, if executed outside the United States, administered by a consular officer. The petition shall be supported by any documentary evidence required by regulations prescribed under this Act. Application may be made in the same petition for admission of more than one individual.

(d) The petition shall be accompanied by the statements of two or more responsible citizens of the United States, to whom the petitioner has been personally known for at least one year, that to the best of their knowledge and belief the statements made in the petition are true and that the petitioner is a responsible individual able to support the immigrant or immigrants for whose admission application is made. These statements shall be attested in the same way as the petition.

(e) If the Commissioner General finds the facts stated in the petition to be true, and that the immigrant in respect of whom the petition is made is entitled to be admitted to the United States as a non-quota immigrant under subdivi-

sion (a) of section 4 or is entitled to preference as a relative under section 6, he shall, with the approval of the Secretary of Labor, inform the Secretary of State of his decision, and the Secretary of State shall then authorize the consular officer with whom the application for the immigration visa has been filed to issue the immigration visa or grant the preference.

(f) Nothing in this section shall be construed to entitle an immigrant, in respect of whom a petition under this section is granted, to enter the United States as a non-quota immigrant, if, upon arrival in the United States, he is found not to be a non-quota immigrant.

PERMIT TO REENTER UNITED STATES AFTER TEMPORARY ABSENCE.

SEC. 10. (a) Any alien about to depart temporarily from the United States may make application to the Commissioner General for a permit to reenter the United States, stating the length of his intended absence, and the reasons therefor. Such application shall be made under oath, and shall be in such form and contain such information as may be by regulations prescribed, and shall be accompanied by two copies of the applicant's photograph.

(b) If the Commissioner General finds that the alien has been legally admitted to the United States, and that the application is made in good faith, he shall, with the approval of the Secretary of Labor, issue the permit, specifying therein the length of time, not exceeding one year, during which it shall be valid. The permit shall be in such form as shall be

by regulations prescribed and shall have permanently attached thereto the photograph of the alien to whom issued, together with such other matter as may be deemed necessary for the complete identification of the alien.

(c) On good cause shown the validity of the permit may be extended for such period or periods, not exceeding six months each, and under such conditions, as shall be by regulations prescribed.

(d) For the issuance of the permit, and for each extension thereof, there shall be paid a fee of $3, which shall be covered into the Treasury as miscellaneous receipts.

(e) Upon the return of the alien to the United States the permit shall be surrendered to the immigration officer at the port of inspection.

(f) A permit issued under this section shall have no effect under the immigration laws, except to show that the alien to whom it is issued is returning from a temporary visit abroad; but nothing in this section shall be construed as making such permit the exclusive means of establishing that the alien is so returning.

NUMERICAL LIMITATIONS.

SEC. 11. (a) The annual quota of any nationality shall be 2 per centum of the number of foreign-born individuals of such nationality resident in continental United States as determined by the United States census of 1890, but the minimum quota of any nationality shall be 100.

(b) The annual quota of any nationality for the fiscal year beginning July 1, 1927, and for each fiscal year thereafter, shall be a number which bears the same ratio to 150,000 as the number of inhabitants in continental United States in 1920 having that national origin (ascertained as hereinafter provided in this section) bears to the number of inhabitants in continental United States in 1920, but the minimum quota of any nationality shall be 100.

(c) For the purpose of subdivision (b) national origin shall be ascertained by determining as nearly as may be, in respect of each geographical area which under section 12 is to be treated as a separate country (except the geographical areas specified in subdivision (c) of section 4) the number of inhabitants in continental United States in 1920 whose origin by birth or ancestry is attributable to such geographical area. Such determination shall not be made by tracing the ancestors or descendants of particular individuals, but shall be based upon statistics of immigration and emigration, together with rates of increase of population as shown by successive decennial United States censuses, and such other data as may be found to be reliable.

(d) For the purpose of subdivisions (b) and (c) the term "inhabitants in continental United States in 1920" does not include (1) immigrants from the geographical areas specified in subdivision (c) of section 4 or their descendants, (2) aliens ineligible to citizenship or their descendants, (3) the descendants of slave immigrants, or (4) the descendants of American aborigines.

(e) The determination provided for in subdivision (c) of this section shall be made by the Secretary of State, the Secretary of Commerce, and the Secretary of Labor, jointly. In making such determination such officials may call for information and expert assistance from the Bureau of the Census. Such officials shall, jointly, report to the President the quota of each nationality, determined as provided in subdivision (b), and the President shall proclaim and make known the quotas so reported. Such proclamation shall be made on or before April 1, 1927. If the proclamation is not made on or before such date, quotas proclaimed therein shall not be in effect for any fiscal year beginning before the expiration of 90 days after the date of the proclamation. After the making of a proclamation under this subdivision the quotas proclaimed therein shall continue with the same effect as if specifically stated herein, and shall be final and conclusive for every purpose except (1) in so far as it is made to appear to the satisfaction of such officials and proclaimed by the President, that an error of fact has occurred in such determination or in such proclamation, or (2) in the case provided for in subdivision (c) of section 12. If for any reason quotas proclaimed under this subdivision are not in effect for any fiscal year, quotas for such year shall be determined under subdivision (a) of this section.

(f) There shall be issued to quota immigrants of any nationality (1) no more immigration visas in any fiscal year than the quota for such nationality, and (2) in any calendar

month of any fiscal year no more immigration visas than 10 per centum of the quota for such nationality, except that if such quota is less than 300 the number to be issued in any calendar month shall be prescribed by the Commissioner General, with the approval of the Secretary of Labor, but the total number to be issued during the fiscal year shall not be in excess of the quota for such nationality.

(g) Nothing in this Act shall prevent the issuance (without increasing the total number of immigration visas which may be issued) of an immigration visa to an immigrant as a quota immigrant even though he is a non-quota immigrant.

NATIONALITY.

SEC. 12. (a) For the purposes of this Act nationality shall be determined by country of birth, treating as separate countries the colonies, dependencies, or self-governing dominions, for which separate enumeration was made in the United States census of 1890; except that (1) the nationality of a child under twenty-one years of age not born in the United States, accompanied by its alien parent not born in the United States, shall be determined by the country of birth of such parent if such parent is entitled to an immigration visa, and the nationality of a child under twenty-one years of age not born in the United States, accompanied by both alien parents not born in the United States, shall be determined by the country of birth of the father if the father is entitled to an immigration visa; and (2) if a wife is of a different nationality from her alien husband and the entire

number of immigration visas which may be issued to quota immigrants of her nationality for the calendar month has already been issued, her nationality may be determined by the country of birth of her husband if she is accompanying him and he is entitled to an immigration visa, unless the total number of immigration visas which may be issued to quota immigrants of the nationality of the husband for the calendar month has already been issued. An immigrant born in the United States who has lost his United States citizenship shall be considered as having been born in the country of which he is a citizen or subject, or if he is not a citizen or subject of any country, then in the country from which he comes.

(b) The Secretary of State, the Secretary of Commerce, and the Secretary of Labor, jointly, shall as soon as feasible after the enactment of this Act, prepare a statement showing the number of individuals of the various nationalities resident in continental United States as determined by the United States census of 1890, which statement shall be the population basis for the purposes of subdivision (a) of section 11. In the case of a country recognized by the United States, but for which a separate enumeration was not made in the census of 1890, the number of individuals born in such country and resident in continental United States in 1890, as estimated by such officials jointly, shall be considered for the purposes of subdivision (a) of section 11 as having been determined by the United States census of 1890. In the case of a colony or dependency existing before 1890, but for which a separate enumeration was not made in the census of 1890 and which

was not included in the enumeration for the country to which such colony or dependency belonged, or in the case of territory administered under a protectorate, the number of individuals born in such colony, dependency, or territory, and resident in continental United States in 1890, as estimated by such officials jointly, shall be considered for the purposes of subdivision (a) of section 11 as having been determined by the United States census of 1890 to have been born in the country to which such colony or dependency belonged or which administers such protectorate.

(c) In case of changes in political boundaries in foreign countries occurring subsequent to 1890 and resulting in the creation of new countries, the Governments of which are recognized by the United States, or in the establishment of self-governing dominions, or in the transfer of territory from one country to another, such transfer being recognized by the United States, or in the surrender by one country of territory, the transfer of which to another country has not been recognized by the United States, or in the administration of territories under mandates, (1) such officials, jointly, shall estimate the number of individuals resident in continental United States in 1890 who were born within the area included in such new countries or self-governing dominions or in such territory so transferred or surrendered or administered under a mandate, and revise (for the purposes of subdivision (a) of section 11) the population basis as to each country involved in such change of political boundary, and (2) if such changes in political boundaries occur after the determination

provided for in subdivision (c) of section 11 has been proclaimed, such officials, jointly, shall revise such determination, but only so far as necessary to allot the quotas among the countries involved in such change of political boundary. For the purpose of such revision and for the purpose of determining the nationality of an immigrant, (A) aliens born in the area included in any such new country or self-governing dominion shall be considered as having been born in such country or dominion, and aliens born in any territory so transferred shall be considered as having been born in the country to which such territory was transferred, and (B) territory so surrendered or administered under a mandate shall be treated as a separate country. Such treatment of territory administered under a mandate shall not constitute consent by the United States to the proposed mandate where the United States has not consented in a treaty to the administration of the territory by a mandatory power.

(d) The statements, estimates, and revisions provided in this section shall be made annually, but for any fiscal year for which quotas are in effect as proclaimed under subdivision (e) of section 11, shall be made only (1) for the purpose of determining the nationality of immigrants seeking admission to the United States during such year, or (2) for the purposes of clause (2) of subdivision (c) of this section.

(e) Such officials shall, jointly, report annually to the President the quota of each nationality under subdivision (a) of section 11, together with the statements, estimates, and revisions provided for in this section. The President shall

proclaim and make known the quotas so reported and thereafter such quotas shall continue, with the same effect as if specifically stated herein, for all fiscal years except those years for which quotas are in effect as proclaimed under subdivision (e) of section 11, and shall be final and conclusive for every purpose.

EXCLUSION FROM UNITED STATES.

SEC. 13. (a) No immigrant shall be admitted to the United States unless he (1) has an unexpired immigration visa or was born subsequent to the issuance of the immigration visa of the accompanying parent, (2) is of the nationality specified in the visa in the immigration visa, (3) is a non-quota immigrant if specified in the visa in the immigration visa as such, and (4) is otherwise admissible under the immigration laws.

(b) In such classes of cases and under such conditions as may be by regulations prescribed immigrants who have been legally admitted to the United States and who depart therefrom temporarily may be admitted to the United States without being required to obtain an immigration visa.

(c) No alien ineligible to citizenship shall be admitted to the United States unless such alien (1) is admissible as a non-quota immigrant under the provisions of subdivision (b), (d), or (e) of section 4, or (2) is the wife, or the unmarried child under 18 years of age, of an immigrant admissible under such subdivision (d), and is accompanying or following to join him, or (3) is not an immigrant as defined in section 3.

(d) The Secretary of Labor may admit to the United States any otherwise admissible immigrant not admissible under clause (2) or (3) of subdivision (a) of this section, if satisfied that such inadmissibility was not known to, and could not have been ascertained by the exercise of reasonable diligence by, such immigrant prior to the departure of the vessel from the last port outside the United States and outside foreign contiguous territory, or, in the case of an immigrant coming from foreign contiguous territory, prior to the application of the immigrant for admission.

(e) No quota immigrant shall be admitted under subdivision (d) if the entire number of immigration visas which may be issued to quota immigrants of the same nationality for the fiscal year has already been issued. If such entire number of immigration visas has not been issued, then the Secretary of State, upon the admission of a quota immigrant under subdivision (d), shall reduce by one the number of immigration visas which may be issued to quota immigrants of the same nationality during the fiscal year in which such immigrant is admitted; but if the Secretary of State finds that it will not be practicable to make such reduction before the end of such fiscal year, then such immigrant shall not be admitted.

(f) Nothing in this section shall authorize the remission or refunding of a fine, liability to which has accrued under section 16.

DEPORTATION.

SEC. 14. Any alien who at any time after entering the United States is found to have been at the time of entry not entitled under this Act to enter the United States, or to have remained therein for a longer time than permitted under this Act or regulations made thereunder, shall be taken into custody and deported in the same manner as provided for in sections 19 and 20 of the Immigration Act of 1917: *Provided*, That the Secretary of Labor may, under such conditions and restrictions as to support and care as he may deem necessary, permit permanently to remain in the United States, any alien child who, when under sixteen years of age was heretofore temporarily admitted to the United States and who is now within the United States and either of whose parents is a citizen of the United States.

MAINTENANCE OF EXEMPT STATUS.

SEC. 15. The admission to the United States of an alien excepted from the class of immigrants by clause (2), (3), (4), (5), or (6) of section 3, or declared to be a non-quota immigrant by subdivision (e) of section 4, shall be for such time as may be by regulations prescribed, and under such conditions as may be by regulations prescribed (including, when deemed necessary for the classes mentioned in clauses (2), (3), (4), or (6) of section 3, the giving of bond with sufficient surety, in such sum and containing such conditions as may be by regulations prescribed) to insure that, at the

expiration of such time or upon failure to maintain the status under which admitted, he will depart from the United States.

PENALTY FOR ILLEGAL TRANSPORTATION.

SEC. 16. (a) It shall be unlawful for any person, including any transportation company, or the owner, master, agent, charterer, or consignee of any vessel, to bring to the United States by water from any place outside thereof (other than foreign contiguous territory) (1) any immigrant who does not have an unexpired immigration visa, or (2) any quota immigrant having an immigration visa the visa in which specifies him as a non-quota immigrant.

(b) If it appears to the satisfaction of the Secretary of Labor that any immigrant has been so brought, such person, or transportation company, or the master, agent, owner, charterer, 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 for each immigrant so brought, and in addition a sum equal to that paid by such immigrant for his transportation from the initial point of departure, indicated in his ticket, to the port of arrival, such latter sum to be delivered by the collector of customs to the immigrant on whose account assessed. No vessel shall be granted clearance pending the determination of the liability to the payment of such sums, or while such sums remain unpaid, except that clearance may be granted prior to the determination of such question upon the deposit of an amount

sufficient to cover such sums, or of a bond with sufficient surety to secure the payment thereof approved by the collector of customs.

(c) Such sums shall not be remitted or refunded, unless it appears to the satisfaction of the Secretary of Labor that such person, and the owner, master, agent, charterer, and consignee of the vessel, prior to the departure of the vessel from the last port outside the United States, did not know, and could not have ascertained by the exercise of reasonable diligence, (1) that the individual transported was an immigrant, if the fine was imposed for bringing an immigrant without an unexpired immigration visa, or (2) that the individual transported was a quota immigrant, if the fine was imposed for bringing a quota immigrant the visa in whose immigration visa specified him as being a non-quota immigrant.

ENTRY FROM FOREIGN CONTIGUOUS TERRITORY.

SEC. 17. The Commissioner General, with the approval of the Secretary of Labor, shall have power to enter into contracts with transportation lines for the entry and inspection of aliens coming to the United States from or through foreign contiguous territory. In prescribing rules and regulations 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 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 ports of the United States. After this section takes effect no alien applying for admission from or through foreign contiguous territory (except an alien previously lawfully admitted to the United States who is returning from a temporary visit to such 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 time of his application for admission to the United States.

UNUSED IMMIGRATION VISAS.

SEC. 18. If a quota immigrant of any nationality having an immigration visa is excluded from admission to the United States under the immigration laws and deported, or does not apply for admission to the United States before the expiration of the validity of the immigration visa, or if an alien of any nationality having an immigration visa issued to him as a quota immigrant is found not to be a quota immigrant, no additional immigration visa shall be issued in lieu thereof to any other immigrant.

ALIEN SEAMEN.

SEC. 19. No alien seaman excluded from admission into the United States under the immigration laws and employed on board any vessel arriving in the United States from any place outside thereof, shall be permitted to land in the United States, except temporarily for medical treatment, or pursuant to such regulation as the Secretary of Labor may prescribe for the ultimate departure, removal, or deportation of such alien from the United States.

SEC. 20. (a) The owner, charterer, agent, consignee, or master of any vessel arriving in the United States from any place outside thereof who fails to detain on board any alien seaman employed on such vessel until the immigration officer in charge at the port of arrival has inspected such seaman (which inspection in all cases shall include a personal physical examination by the medical examiners), or who fails to detain such seaman on board after such inspection or to deport such seaman if required by such immigration officer or the Secretary of Labor to do so, shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $1,000 for each alien seaman in respect of whom such failure occurs. No vessel shall be granted clearance pending the determination of the liability to the payment of such fine, or while the fine remains unpaid, except that clearance may be granted prior to the determination of such question upon the deposit of a sum sufficient to cover such

fine, or of a bond with sufficient surety to secure the payment thereof approved by the collector of customs.

(b) Proof that an alien seaman did not appear upon the outgoing manifest of the vessel on which he arrived in the United States from any place outside thereof, or that he was reported by the master of such vessel as a deserter, shall be prima facie evidence of a failure to detain or deport after requirement by the immigration officer or the Secretary of Labor.

(c) If the Secretary of Labor finds that deportation of the alien seaman on the vessel on which he arrived would cause undue hardship to such seaman he may cause him to be deported on another vessel at the expense of the vessel on which he arrived, and such vessel shall not be granted clearance until such expense has been paid or its payment guaranteed to the satisfaction of the Secretary of Labor.

(d) Section 32 of the Immigration Act of 1917 is repealed, 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.

PREPARATION OF DOCUMENTS.

SEC. 21. (a) Permits issued under section 10 shall be printed on distinctive safety paper and shall be prepared and issued under regulations prescribed under this Act.

(b) The Public Printer is authorized to print for sale to the public by the Superintendent of Public Documents, upon prepayment, additional copies of blank forms of manifests and

crew lists to be prescribed by the Secretary of Labor pursuant to the provisions of sections 12, 13, 14, and 36 of the Immigration Act of 1917.

OFFENSES IN CONNECTION WITH DOCUMENTS.

SEC. 22. (a) Any person who knowingly (1) forges, counterfeits, alters, or falsely makes any immigration visa or permit, or (2) utters, uses, attempts to use, possesses, obtains, accepts, or receives any immigration visa or permit, knowing it to be forged, counterfeited, altered, or falsely made, or to have been procured by means of any false claim or statement, or to have been otherwise procured by fraud or unlawfully obtained; or who, except under direction of the Secretary of Labor or other proper officer, knowingly (3) possesses any blank permit, (4) engraves, sells, brings into the United States, or has in his control or possession any plate in the likeness of a plate designed for the printing of permits, (5) makes any print, photograph, or impression in the likeness of any immigration visa or permit, or (6) has in his possession a distinctive paper which has been adopted by the Secretary of Labor for the printing of immigration visas or permits, shall, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both.

(b) Any individual who (1) when applying for an immigration visa or permit, or for admission to the United States, personates another, or falsely appears in the name of a deceased individual, or evades or attempts to evade the

immigration laws by appearing under an assumed or fictitious name, or (2) sells or otherwise disposes of, or offers to sell or otherwise dispose of, or utters, an immigration visa or permit, to any person not authorized by law to receive such document, shall, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both.

(c) Whoever knowingly makes under oath any false statement in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, shall, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both.

BURDEN OF PROOF.

SEC. 23. Whenever any alien attempts to enter the United States the burden of proof shall be upon such alien to establish that he is not subject to exclusion under any provision of the immigration laws; and in any deportation proceeding against any alien the burden of proof shall be upon such alien to show that he entered the United States lawfully, and the time, place, and manner of such entry into the United States, but in presenting such proof he shall be entitled to the production of his immigration visa, if any, or of other documents concerning such entry, in the custody of the Department of Labor.

RULES AND REGULATIONS.

SEC. 24. The Commissioner General, with the approval of the Secretary of Labor, shall prescribe rules and regulations for the enforcement of the provisions of this Act; but all such rules and regulations, in so far as they relate to the administration of this Act by consular officers, shall be prescribed by the Secretary of State on the recommendation of the Secretary of Labor.

ACT TO BE IN ADDITION TO IMMIGRATION LAWS.

SEC. 25. The provisions of this Act are in addition to and not in substitution for the provisions of the immigration laws, and shall be enforced as a part of such laws, and all the penal or other provisions of such laws, not inapplicable, shall apply to and be enforced in connection with the provisions of this Act. An alien, although admissible under the provisions of this Act, shall not be admitted to the United States if he is excluded by any provision of the immigration laws other than this Act, and an alien, although admissible under the provisions of the immigration laws other than this Act, shall not be admitted to the United States if he is excluded by any provision of this Act.

STEAMSHIP FINES UNDER 1917 ACT.

SEC. 26. Section 9 of the Immigration Act of 1917 is amended to read as follows:

"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 $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 custom 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 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. 27. Section 10 of the Immigration Act of 1917 is amended to read as follows:

"SEC. 10. (a) 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 lieu 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."

GENERAL DEFINITIONS.

SEC. 28. As used in this Act—

(a) The term "United States," when used in a geographical sense, means the States, the Territories of Alaska and Hawaii, the District of Columbia, Porto Rico, and the Virgin Islands; and the term "continental United States" means the States and the District of Columbia;

(b) The term "alien" includes any individual 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, nor citizens of the islands under the jurisdiction of the United States;

(c) The term "ineligible to citizenship," when used in reference to any individual, includes an individual who is debarred from becoming a citizen of the United States under section 2169 of the Revised Statutes, or under section 14 of the Act entitled "An Act to execute certain treaty stipulations relating to Chinese," approved May 6, 1882, or under section 1996, 1997, or 1998 of the Revised Statutes, as amended, or under section 2 of the Act entitled "An Act to authorize the President to increase temporarily the Military Establishment of the United States," approved May 18, 1917, as amended, or under law amendatory of, supplementary to, or in substitution for, any of such sections;

(d) The term "immigration visa" means an immigration visa issued by a consular officer under the provisions of this Act;

(e) The term "consular officer" means any consular or diplomatic officer of the United States designated, under regulations prescribed under this Act, for the purpose of issuing immigration visas under this Act. In case of the Canal Zone

and the insular possessions of the United States the term "consular officer" (except as used in section 24) means an officer designated by the President, or by his authority, for the purpose of issuing immigration visas under this Act;

(f) The term "Immigration Act of 1917" means the Act of February 5, 1917, entitled "An Act to regulate the immigration of aliens to, and the residence of aliens in, the United States";

(g) The term "immigration laws" includes such Act, this Act, and all laws, conventions, and treaties of the United States relating to the immigration, exclusion, or expulsion of aliens;

(h) The term "person" includes individuals, partnerships, corporations, and associations;

(i) The term "Commissioner General" means the Commissioner General of Immigration;

(j) The term "application for admission" has reference to the application for admission to the United States and not to the application for the issuance of the immigration visa;

(k) The term "permit" means a permit issued under section 10;

(l) The term "unmarried," when used in reference to any individual as of any time, means an individual who at such time is not married, whether or not previously married;

(m) The term "child," "father," and "mother," do not include a child or parent by adoption unless the adoption took place before January 1, 1924;

(n) The terms "wife" and "husband" do not include a wife or husband by reason of a proxy or picture marriage.

AUTHORIZATION OF APPROPRIATION.

SEC. 29. The appropriation of such sums as may be necessary for the enforcement of this Act is hereby authorized.

ACT OF MAY 19, 1921.

SEC. 30. The Act entitled "An Act to limit the immigration of aliens into the United States," approved May 19, 1921, as amended and extended, shall, notwithstanding its expiration on June 30, 1924, remain in force thereafter for the imposition, collection, and enforcement of all penalties that may have accrued thereunder, and any alien who prior to July 1, 1924, may have entered the United States in violation of such Act or regulations made thereunder may be deported in the same manner as if such Act had not expired.

TIME OF TAKING EFFECT.

SEC. 31. (a) Sections 2, 8, 13, 14, 15, and 16, and subdivision (f) of section 11, shall take effect on July 1, 1924, except that immigration visas and permits may be issued prior to that date, which shall not be valid for admission to the United States before July 1, 1924. In the case of quota immigrants of any nationality, the number of immigration visas to be issued prior to July 1, 1924, shall not be in excess of 10 per centum of the quota for such nationality, and the number of immigration visas so issued shall be deducted from

the number which may be issued during the month of July, 1924. In the case of immigration visas issued before July 1, 1924, the four-month period referred to in subdivision (c) of section 2 shall begin to run on July 1, 1924, instead of at the time of the issuance of the immigration visa.

(b) The remainder of this Act shall take effect upon its enactment.

(c) If any alien arrives in the United States before July 1, 1924, his right to admission shall be determined without regard to the provisions of this Act, except section 23.

SAVING CLAUSE IN EVENT OF UNCONSTITUTIONALITY.

SEC. 32. If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Approved, May 26, 1924.

日本外交文書
対米移民問題経過概要附属書
(大正期第二十六冊)
不許複製

Documents on
Japanese Foreign Policy

Annexes to Summary of the Course of Negotiations between Japan and the United States concerning the Problem of Japanese Immigration in the United States

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