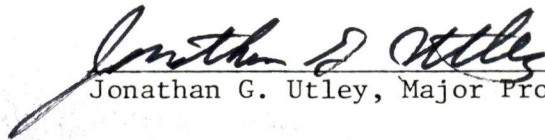
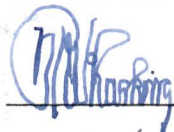
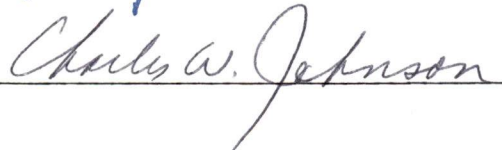


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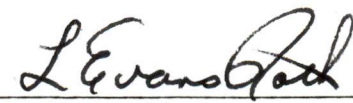
I am submitting herewith a thesis written by Keith Farrin Blue entitled "The State Department and The Japanese Exclusion Act of 1924." I recommend that it be accepted in partial fulfillment of the requirements for the degree of Master of Arts in College Teaching, with a major in History.

  
Jonathan G. Utley, Major Professor

We have read this thesis  
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THE STATE DEPARTMENT AND THE  
JAPANESE EXCLUSION ACT OF 1924

A Thesis  
Presented for the  
Master of Arts in College Teaching  
Degree  
The University of Tennessee, Knoxville

Keith Farrin Blue

December 1978

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## ABSTRACT

In 1924, Congress passed, as part of a general immigration bill, an amendment that barred Japanese immigrants from the United States. It had voted in favor of exclusion even though the Department of State and Secretary of State Charles Evans Hughes had strongly opposed such a measure. Hughes had warned the Senate that the amendment would be taken as a racial insult by Japan, and would, therefore, harm relations with that country.

This study of the exclusion act examines the efforts of the State Department to stop its passage. The Secretary of State tried to defeat the exclusionists in Congress by making an appeal to reason. He argued that aside from damaging American foreign policy in Asia, banning Japanese immigrants by federal statute would not be the most effective and practical method to stop Japanese immigration. If Japan were allowed a small immigration quota, fewer Japanese would enter the country illegally. Hughes's explanation was that under the Gentlemen's Agreement, which had regulated Japanese immigration since 1908, Japan had voluntarily restricted emigration. Abrogation of the agreement by an exclusion act would end that cooperation and therefore the number of Japanese emigrants to the United States would increase. Since the Mexican and Canadian borders were inadequately patrolled, illegal immigration could then be expected to rise sharply. Thus a quota and the Gentlemen's Agreement, Hughes maintained, would be a more effective way to cut off immigration from Japan.

The Secretary of State, however, was not able to convince the Senate that his method was preferable to exclusion. Keeping the

Gentlemen's Agreement would have required Congress to turn over part of its power to regulate immigration to the State Department, which it would not do. Hughes's major mistake was his failure to negotiate earlier a substitute for the Gentlemen's Agreement that was acceptable to the exclusionists. The secretary had hesitated to face the issue until 1924, because he was afraid that open discussion of it would stir up anti-Japanese sentiment and only make matters worse. But by the time he did take action, it was too late to bargain, and Congress would not listen to his arguments.

## PREFACE

From 1910 to 1919, some 77,253 unwelcome Japanese immigrants entered California. The Gentlemen's Agreement, an arrangement intended to stop the emigration of Japanese to America, had been in effect since 1908 but was not accomplishing its purpose. Consequently, anti-Japanese congressmen from California and other west coast states began, in 1921, to work for a federal exclusion law to replace the Gentlemen's Agreement. Until late in 1923, Congress had ignored their efforts. At that time, both the House and Senate turned to general immigration restriction as a panacea for the country's ills, and soon a new, more restrictive bill was drafted. An immigration bill was brought before the House Committee on Immigration and Naturalization in December, 1923, and it was amended to ban all Japanese immigration. This brought the House committee into conflict with the State Department and Secretary of State Charles Evans Hughes in early 1924.

According to Hughes, the exclusion act was an irrational solution to the problem. He asked Congress to consider the implications on the United States' relations with Japan. Exclusion, the Secretary pointed out, was a racial insult that Japan would not take lightly. The bad feelings an exclusion act would create could make cooperation between the two countries more difficult in other areas. Hughes claimed to have an alternative solution that would avoid injuring Japan's sensitive pride, and still achieve the same effect as exclusion. Japan would be given a small immigration quota, amounting to about 246 persons per year, and both countries would work as specified

under the Gentlemen's Agreement to prevent any further immigration. The token quota would spare Japan's dignity, and, in return for this courtesy, Japan would do its best to keep its people at home. As for the 246 Japanese who would enter the country, Hughes believed that their presence was a small price for the maintenance of good feelings between America and Japan. Hughes' argument did not impress Congress, which passed a Japanese exclusion act in 1924.

This study examines the efforts of Charles Evans Hughes and the Department of State to prevent the passage of a Japanese exclusion act. Several questions will be considered. Foremost, why did the secretary choose the course of action he followed in February and March of 1924? Were there other alternatives? Could Hughes have stopped exclusion if he had acted differently? These are questions historians of diplomacy and immigration have not addressed. Rodman Paul's 1936 study, The Abrogation of the Gentlemen's Agreement concentrated on Congress, not the Department of State. In 1966, Roger Daniels' Politics of Prejudice re-examined the question but focused on the exclusion movement and gave the State Department only brief attention. Consequently, there is a gap in the literature of Japanese exclusion, one this thesis seeks to fill.

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## CHAPTER 1

### THE GENTLEMEN'S AGREEMENT UNDER ATTACK

Anti-Japanese agitation had created problems for the State Department since the early 1900's.<sup>1</sup> Nativists in California and other western states wanted to stop Japanese immigration by convincing Congress to pass an exclusion act for Japanese similar to the Chinese Exclusion Act of 1882. Until Congress passed such an act, the nativists planned to harass the Japanese immigrants by state legislation that deprived them of rights granted to other aliens. The exclusion movement was helped by politicians who, looking for an issue, raised the cry against the threat of Japanese immigration.<sup>2</sup> Likewise, newspapers devoted numerous articles to the "yellow peril" that was invading the West Coast. All the while, the executive branch of the federal government tried to stop this agitation.

President Theodore Roosevelt and the Department of State sympathized with nativists, but realized the international implications of the Japanese question. Japan had become too powerful militarily for the United States to needlessly antagonize them. In 1905, Japan had fought Russia to a standstill in Manchuria. With this turn of events, Japan became a challenge to western supremacy in East Asia and the

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<sup>1</sup>Roger Daniels, The Politics of Prejudice: The Anti-Japanese Movement in California and the Struggle for Japanese Exclusion (Berkeley and Los Angeles: University of California Press, 1962), pp. 31-46.

<sup>2</sup>David Warren Ryder, "The Japanese Bugaboo," American Mercury, 3:24-30 (September, 1924).

Pacific.<sup>3</sup> A surprised and worried United States Navy immediately drew up plans for war with Japan. So as to avoid an armed conflict with the new Pacific power, President Roosevelt took care to keep relations with Japan friendly. He was disturbed that the treatment of Japanese on the West Coast by the anti-Japanese factions might cause trouble with Japan.<sup>4</sup>

The possibility of a Japanese-American conflict increased in 1907 when the San Francisco Board of Education ordered the segregation of Oriental school children. The implication of the school board's act was that the Japanese children were unfit to mix with American children. There was a tremendous public outcry in Japan-- its sensitive pride had been offended, and many anti-American demonstrations took place. The Japanese government vigorously protested the school board's action to the federal government. Roosevelt considered the matter serious enough to warrant his personal attention. Calming the situation on the west coast was extremely important if relations with Japan were to remain stable. If no relief could be given to the California nativists, harassment of the Japanese immigrants would likely continue to the detriment of the United States' East Asian policy.

Roosevelt decided that the way to quiet anti-Japanese agitation in California was to stop any further emigration from Japan. The

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<sup>3</sup>Akira Iriye, Pacific Estrangement: Japanese and American Expansion 1897-1911 (Cambridge: Harvard University Press, 1972), pp. 47-62.

<sup>4</sup>Daniels, Politics of Prejudice, p. 51.

problem was how to achieve this without implying that Japanese were racially inferior to westerners. The President saw that any unilateral move by the United States to prohibit immigration would be interpreted as a racial insult. A more diplomatic approach was required to avoid such an offense and the crisis it could bring.

Roosevelt did not have legal authority to revoke the school board's ruling, so he had to persuade the San Franciscans to rescind the segregation order. The President found, upon discussing the matter with California leaders, that the segregation policy was simply one manifestation of a deep prejudice against the Japanese immigrants. Roosevelt saw the possibility of a trade-off. Since he already intended to stop Japanese immigration, he had nothing to lose by offering to do so in return for the nullification of the school board order.<sup>5</sup> Roosevelt proposed the exchange, which the state's leaders accepted, then opened talks with Japan.

Fortunately for the President, Japan, like the United States, was in no mood to risk ending friendly relations over the conflict on immigration. The discussions went slowly, each side naturally seeking the terms most advantageous to its own self-interest. The school crisis was initially resolved in February, 1907, when Japan informally agreed to voluntarily limit the immigration of laborers. Roosevelt had fulfilled his part of the bargain. With Japanese immigration supposedly ended, the San Francisco school board cancelled the segregation order. The immediate problem was past, so then Roosevelt and the

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<sup>5</sup>Ibid., p. 44.

State Department began an exchange of diplomatic notes with Japan to work out the details of the settlement.

The correspondence finally produced an accord in March, 1908, called the Gentlemen's Agreement, under which Japan promised to withhold passports from laborers intending to emigrate to the United States. It seemed to be an ideal solution. From the perspective of Roosevelt and the State Department, a potential source of serious conflict with Japan had been removed. The anti-Japanese forces in California had been appeased by the end of Japanese immigration. The Japanese government, by offering to restrict emigration, had spared its people the insult of a federal exclusion law. This general satisfaction with the Gentlemen's Agreement, however, was to be short-lived.

The nativists in California thought they had won their battle against the Japanese, but were soon disappointed. Roosevelt had led the west coast states to believe that the Gentlemen's Agreement was, in effect, the same as an exclusion act.<sup>6</sup> Exactly what it entailed was understandably unclear, because the agreement was comprised of correspondence between the United States and Japan that was not published. The nativists expected it to exclude all Japanese immigrants. What Roosevelt and the State Department also did not make public was that they had made provisions in the agreement for certain types of Japanese, primarily settled agriculturists and wives of men already in America,

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<sup>6</sup>Charles E. Neu, An Uncertain Friendship, Theodore Roosevelt and Japan, 1906-1909 (Cambridge: Harvard University Press, 1967) p. 179.

to be permitted to emigrate.<sup>7</sup> This was done to make it more acceptable to Japan.

At first it seemed that Japanese immigration had been stopped. In 1908, the year before the agreement went into effect, 16,418 Japanese entered the United States; in 1909, with the Gentlemen's Agreement in operation, the number of entries fell to 3,274. The next year only 2,798 Japanese arrived, but in 1911 the downward trend was reversed. The number of Japanese immigrants increased to 4,575, and climbed steadily to a high of 10,164 in 1918.<sup>8</sup>

The problem was that a great many Japanese still wanted to come to the United States, and they were willing to violate their government's emigration restrictions. The largest percentage of the increase was made up of women called "picture brides." As mentioned above, the Gentlemen's Agreement allowed Japan to issue passports to "the parents, wives, and children of laborers" already in the United States. Unmarried

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<sup>7</sup> Daniels, Politics of Prejudice, p. 44.

<sup>8</sup> Ibid., p. 111.

Japanese Immigration 1912-1919

| Year | Immigrants |
|------|------------|
| 1912 | 6,172      |
| 1913 | 8,302      |
| 1914 | 8,941      |
| 1915 | 8,609      |
| 1916 | 8,711      |
| 1917 | 8,925      |
| 1918 | 10,164     |
| 1919 | 10,056     |

Japanese males in America began doing something unforeseen by Roosevelt and the State Department. They were sending home for women.<sup>9</sup> The man in the United States would have relatives in Japan find a suitable marriage-minded woman. Under Japanese custom, a legal marriage could be performed without the groom's presence at the ceremony. After the wedding, the couple would exchange pictures by mail; thus the name "picture brides." The new wife could then legally obtain a passport from the Japanese government and join her husband in America.

The exclusionists were appalled when large numbers of picture brides began arriving in west coast ports. It was bad enough that Japanese were entering the country; that the majority were women who would breed more Japanese made the situation critical. Anti-Japanese factions claimed the practice of proxy marriages was illegal and had been started by Japan to avoid the intent of the Gentlemen's Agreement. Some exclusionists claimed that the Japanese intended to colonize the west coast of the United States.

The loss of confidence in the Gentlemen's Agreement led to a resumption of discriminatory state legislation. In 1913, the California Legislature passed an alien land act restricting Japanese land holding. The law was supposed to keep property out of Japanese hands. Its many supporters hoped that denying the land-hungry Japanese the rights of private ownership would discourage emigration from Japan. California Governor Hiram Johnson said that the Alien Land Act "laid the ghost"

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<sup>9</sup>Ibid., p. 44.

of the Japanese question.<sup>10</sup> Most California nativists must have agreed with their governor, for after the act passed, anti-Japanese protest subsided. Another cause for the decrease in nativist activity was the outbreak of war in Europe. By 1917, the energies of the exclusionists, like the rest of the country, turned toward winning the war against Germany. When the war ended, the cause of Japanese exclusion was taken up again with more fervor than ever.

The reason was that California nativists saw that neither the Gentlemen's Agreement nor the Alien Land Act of 1913 had stopped immigration from Japan. An estimated 10,056 Japanese entered the United States in 1919.<sup>11</sup> Equally disturbing to nativists was the fact that California Japanese occupied 458,056 acres in 1919, a 412.9 percent increase over the amount of land they controlled in 1909.<sup>12</sup> The value of crops grown by Japanese during the same 10-year period increased by 976.8 percent, from \$6,235,856 in 1909, to \$67,145,730 in 1919.<sup>13</sup> All that occurred while Japanese population rose by 11 percent in the state.<sup>14</sup> Estimates of the total number of Japanese in California

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<sup>10</sup>Ibid., p. 64.

<sup>11</sup>California State Board of Control, California and the Oriental (Sacramento: State of California, 1922), p. 26-29.

<sup>12</sup>Ibid., p. 51.

<sup>13</sup>Ibid., pp. 26-29.

<sup>14</sup>Ibid.

in 1919 ranged from 83,628 to 87,279.<sup>15</sup> The awareness that they had not achieved their goal caused anti-Japanese factions to become active again, and this time they were determined to stop immigration permanently. For the second time, they advocated a federal exclusion act that would stop Japanese immigrants, just as Chinese immigrants had been banned in 1882. The nativists felt betrayed by the State Department and the Gentlemen's Agreement, and had lost patience with indirect methods of discouraging immigration such as the Alien Land Act. They were ready to take direct action.<sup>16</sup>

The desire for exclusion was strongest in California, because more Japanese lived there than in any other state. Politicians such as Senator James D. Phelan led the movement for serious measures to stop Japanese immigration.<sup>17</sup> The Native Sons of the Golden West, the most influential political pressure group in California, took up the cause of Japanese exclusion on racial grounds.<sup>18</sup> They published a monthly newsletter called "The Grizzly Bear" that warned constantly against the mixing of whites and Japanese. The American Legion in California supported exclusion as part of its patriotic duty.<sup>19</sup> Labor

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<sup>15</sup>Ibid.

<sup>16</sup>Daniels, Politics of Prejudice, p. 82.

<sup>17</sup>Ibid., p. 81.

<sup>18</sup>Ibid., p. 85.

<sup>19</sup>Ibid., p. 86.

unions, even though Japanese rarely competed with white workers, supported the exclusionist cause.<sup>20</sup> Agricultural organizations such as the Farm Bureau Federation and the State Grange would back any measures that would keep Japanese from obtaining productive land.<sup>21</sup>

The fears of the California nativists were grounded in the race consciousness that permeated American thought at the time. Since the turn of the century, eastern nativist intellectuals had tried to explain America's problems by blaming them on the millions of immigrants in the country. These newcomers, they argued, were racially inferior to Americans. Most European immigrants, their explanation went, lacked the mental and spiritual characteristics necessary to adapt to the American way of life. The result of the immigrants' inability to assimilate was social disharmony and strife. Popularizers of this scientific racism warned that if the flood of immigrants was allowed to continue, America would be committing racial suicide. The pure, superior American racial traits would be defiled and eventually destroyed by intermingling with the inferior traits of the immigrants. To avoid this impending doom, the nativist authors proposed restrictive immigration laws.<sup>22</sup>

The idea of limits on immigration was not new on the west coast. California nativists believed that the Issei, the Japanese who had emigrated to America, must go if the social and economic well-being of

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<sup>20</sup>Ibid., p. 87.

<sup>21</sup>Ibid.

<sup>22</sup>John Higham, Strangers in the Land: Patterns of American Nativism 1860-1925 (New Brunswick, New Jersey: Rutgers University Press, 1955), pp. 270-277.

white Americans was to be maintained. However, the westerners found that ridding themselves of their problem was not going to be easy. Two efforts to keep Japanese out of the country, the Gentlemen's Agreement and the California Alien Land Act of 1913, had failed. To those who supported exclusion, this meant that the Japanese were far more formidable and threatening than Americans had believed them to be. Orientals, then, although considered inferior to whites, were credited by the exclusionists as being the most clever and determined of the colored peoples. Exclusionist leaders believed that they would not accept their natural state of inferiority to the white man. This meant that they must wrestle with the immigration problem seriously, for immigrants from Japan would not passively obey the Americans' orders to stay out.<sup>23</sup>

The extremists in the exclusionist ranks seem to have convinced themselves by 1919 that Japan was out to colonize the western United States. Whether or not most exclusionists believed that the Issei were the vanguard of an invading yellow horde, there was a common belief among them that the Japanese were a definite threat.<sup>24</sup> After 1919, the only answer to the immigration question the anti-Japanese factions would accept was exclusion. They were taking no more chances; Japanese immigrants must be kept out. Negotiations for a new immigration treaty would only waste time, and thus give more immigrants a chance to slip into the country.

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<sup>23</sup>Daniels, Politics of Prejudice, p. 83.

<sup>24</sup>Ibid., p. 88.

The demands of these groups in California went beyond banning Japanese immigrants. The California Exclusion League advocated measures that were typical of the movement. It called for, in addition to a ban on Japanese immigration, "confirmation of the policy that Asiatics shall be forever barred from American citizenship."<sup>25</sup> Furthermore, the League demanded an "amendment of the Federal Constitution providing that no child born in the United States shall be given the rights of an American citizen unless both parents are of a race eligible to citizenship."<sup>26</sup> The anti-Japanese factions had good reason to insist that Japanese be denied the right to citizenship. Their standard argument for barring Japanese from the country was that American society could never assimilate orientals. They knew that the Issei were granted naturalization rights in the future, it would mean that Japanese were capable of assimilation, which would weaken their case for restrictive legislation. So, they set out to build a legal wall that the Japanese could not surmount.

The revived exclusion movement came in conflict with the Department of State in late 1919. Senator Phelan, California's self-appointed leader of the exclusionist cause, had written to the State Department several times asking for help in stopping Japanese immigration. When it declined to take action, Phelan proposed an amendment to a new immigration bill that would ban Japanese laborers from the

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<sup>25</sup>Ibid., p. 85.

<sup>26</sup>Ibid.

United States.<sup>27</sup> This action quickly drew the State Department's attention.

On November 19, John V. A. MacMurray, Chief of the Division of Far Eastern Affairs, told Secretary of State Robert Lansing that the effect of Phelan's amendment would be to "exclude absolutely Japanese of the laboring class, thus substituting an act of Congress in place of the arrangement with the Japanese government." MacMurray had studied Phelan's letters to the Department, and offered the opinion that the Senator's main grievance was the large number of picture brides arriving from Japan. MacMurray acknowledged the Californian's right to protest the influx of picture brides, but he warned against offending the sensitive pride of the Japanese by singling them out as racial inferiors.<sup>28</sup> Both MacMurray and the secretary would have had in mind that relations with Japan were already strained. The tension that existed between the two countries had been intensified by the war and the peace settlement. American demands that any intervention in Siberia in 1918 be a joint effort had blocked Japanese aims to control Manchuria. At the Paris Peace Conference, Woodrow Wilson had been hesitant to transfer Shantung to Japan. Moreover, he had not supported a Japanese proposal that a statement declaring the equality of all races be included in the League's covenant. Yet another dispute

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<sup>27</sup>Memorandum, MacMurray to Lansing, November 19, 1919, File 711.945/1042½, Record Group 59, National Archives, Washington, D.C. (hereafter cited as R.G. 59, N.A.).

<sup>28</sup>Ibid.

emerged at Paris over American and Japanese rights on Yap Island. The two countries were at odds over the shape of the future in East Asia and the Pacific, and the situation was further aggravated by anti-Japanese protest in California.

With all this no doubt in mind, MacMurray posed a solution that he believed would calm tempers on both sides. The spirit of the plan was similar to the idea behind the Gentlemen's Agreement. The Department of State would not demand that Japan put an end to the practice of picture brides. Instead, State would discreetly convince Japan to voluntarily stop giving passports to the brides, the same way it had already "voluntarily" agreed to restrict emigration. The diplomatic advantage of this approach was that the Japanese government would not appear to bow to outside pressure, and thus could keep the respect of its people. Simply, MacMurray thought it "probable" that if the picture-bride problem was "removed voluntarily by the Japanese government, the matter might not be pursued further in Congress."<sup>29</sup>

Almost immediately it became clear Japan was prepared to compromise. From Tokyo, Ambassador Roland S. Morris cabled Secretary Lansing that there was growing resentment in Japan over the treatment of Japanese in California: "Discrimination against the Japanese people in California. . .profoundly affects Japanese pride and sentiment and any action by California at this time when public feeling in Japan is generally antagonistic would lead to an extremely serious crisis."

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<sup>29</sup>Ibid.

The Japanese government, however, was holding its temper and was willing to take whatever steps were necessary to avoid a confrontation. It was prepared to endorse a resolution adopted by the Japanese Association of California that forbade its male members to marry by proxy. This, Japan claimed, would quiet agitation in California.<sup>30</sup>

Lansing was pleased that Japan intended to end the immigration of picture brides, but he believed it would not be enough to meet the "difficult situation" which existed in the United States.<sup>31</sup> He insisted that "this government should be enabled to give in behalf of the Japanese government some authoritative indication which would satisfy the feeling that has been aroused by this question."<sup>32</sup> The Japanese government's informal approval of a resolution made by its nationals in America would not placate the exclusionists. However, if Japan would issue an official statement of its intentions to correct abuses of the Gentlemen's Agreement, the nativists in California might be convinced. The Secretary of State urged Morris to press for such a statement from Tokyo and warned his ambassador on November twenty-first that "Since Congress reconvenes on December 1, and it is probable that the bill now pending will be pushed rapidly, haste is necessary if legislation on this point is to be averted."<sup>33</sup>

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<sup>30</sup>Telegram, Morris to Lansing, November 20, 1919, File 711.94/306, R.G. 59, N. A.

<sup>31</sup>Telegram, Lansing to Morris, November 21, 1919, File 711.94/306, R. G. 59, N. A.

<sup>32</sup>Ibid.

<sup>33</sup>Ibid.

Less than a month later, on December 13, 1919, Japan communicated to the State Department a formal note declaring an end to the emigration of picture brides:

The Japanese Government, placing supreme importance upon the promotion of friendly relations between Japan and the United States, and having carefully examined in that spirit the situation created by the question of the so-called 'picture brides' has decided to adopt measures for the prohibition of such brides from proceeding to the Continental United States.<sup>34</sup>

The Department released the note to the newspapers on December twentieth. The State Department's actions turned out to be unnecessary in terms of convincing the Senate to reject Phelan's amendment. The bill remained in committee throughout 1920, attracted no attention, and then died there when Phelan, defeated for re-election, did not return to the Senate in 1921.<sup>35</sup>

Since the possibility of federal action was remote, California exclusionists busied themselves with drafting a new discriminatory land law to replace the inadequate 1913 Alien Land Act. The Japanese promise had no noticeable effect on the exclusionists who had their own beliefs about Japan's intentions to stop immigration. This new act was to be an initiative measure designed to show to Congress and the American people the strength of Anti-Japanese sentiment in California.

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<sup>34</sup>Telegram, Ambassador Shidehara to Secretary of State Lansing, December 13, 1919, File 711.94/312, R. G. 59, N. A.

<sup>35</sup>U. S. Congress, Congressional Record 66 Cong., 1 sess., Vol. 58, pt. 9, pp. 9507, 9679. There was no further mention of Phelan's amendment in later Congressional Records. Phelan was defeated by Samuel Shortridge in the November, 1920 Senate race.

By March, 1920, the Department was faced with a new discriminatory bill in California. This time State sent Ambassador Morris to the west coast to find a solution.

## CHAPTER 2

### AMBASSADOR MORRIS AND THE JAPANESE QUESTION

Morris spent the early part of July in California.<sup>1</sup> While he was there, the California Board of Control released its own report on Japanese immigrants titled "California and the Oriental." In Morris' opinion, it "clearly reflected the feeling in the state."<sup>2</sup>

A careful study of the report helps in understanding the assumptions underlying the exclusion movement after 1920. One was that the Board of Control seriously doubted the sincerity or the usefulness of voluntary actions by the Japanese government to restrict emigration. This was because the Issei would skillfully circumvent any new restrictions to help others come to the United States.<sup>3</sup> A second was that the State Department was largely responsible for the failure of the Gentlemen's Agreement, which the exclusionists characterized as "a collapse of American diplomacy."<sup>4</sup> Giving Japan the final approval of passports had surrendered America's sovereign right to regulate immigration.

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<sup>1</sup>Morris Report, January 25, 1921, U. S. Department of State, Foreign Relations of the United States, 1921 (Washington: U. S. Government Printing Office, 1936), Vol. II, pp. 323-349.

<sup>2</sup>Ibid., p. 324.

<sup>3</sup>State Board of Control of California, California and the Oriental, p. 8.

<sup>4</sup>Ibid., p. 175.

Governor William D. Stephens wrote in the introduction to the report that he did not expect the November initiative to settle the Japanese question. Stephens made it plain that if the revised Alien Land Act did not work, which seemed likely, the problem "could not be effectively dealt with except through the medium of the Federal Government...."<sup>5</sup> Therefore, the Governor promised the Secretary of State that the California congressional delegation could soon be expected to introduce exclusion legislation. In sum, the exclusionists intended to use the initiative measure to show the country that a majority of Californians were in favor of anti-Japanese legislation and exclusion, demonstrate that the state could not execute the will of its people, and then demand that Congress use its power to restrict immigration.

Morris's investigations in California apparently convinced him that the nativists would settle for nothing but exclusion. He conveyed this opinion to the Japanese, telling Ambassador Kijuro Shidehara on July 22, 1920, that "there was practically a unanimous determination on the part of the people of California to prevent all Asiatic emigration to California."<sup>6</sup> Morris knew that complete exclusion was necessary. The problem was the same one that had faced State before: how to achieve exclusion in a manner that would be acceptable

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<sup>5</sup>Ibid., p. 12.

<sup>6</sup>Memorandum, Morris to Secretary of State Colby, July 22, 1920, Foreign Relations, 1920, Vol. III, pp. 12-14.

to Japan. He justified the need for exclusion to the Japanese ambassador on the basis that it would most likely improve conditions for the Japanese already in America.<sup>7</sup> If the Californians knew that no more Japanese would be coming, then there would be no reason for discriminatory legislation to drive them away. The basic question, Morris said, was whether the Japanese could assimilate and become Americans. The exclusionists maintained that it was not possible. Morris proposed to Shidehara that if immigration to America were stopped for several generations, the question of assimilation might be better answered.<sup>8</sup>

The American ambassador also predicted that the initiative for the Alien Land Act would pass. He warned Shidehara that any protest against the initiative from the Japanese government or overt involvement by the State Department would only "accentuate the present antagonism."<sup>9</sup> Morris recommended that two steps be taken. First, Japan should immediately file suit in federal court challenging the constitutionality of the original Alien Land Act of 1913. Second, the two governments should begin immediate negotiations "to strengthen the Gentlemen's Agreement so that it would hereafter operate totally to exclude all Japanese."<sup>10</sup>

The first measure, testing the constitutionality of the Alien Land Act, was necessary to determine if there was a real problem to be

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<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid., p. 13.

met. If the 1913 law was ruled unconstitutional, then the newly proposed measure being an amended version of the original, would also be struck down. In addition, as long as a test case was in court, even if the land act passed, the Japanese government could quiet anti-American sentiment at home by pointing out that the final effect of the law was still in doubt.

The second measure, tightening restrictions on Japanese immigration, was the most crucial. If the Alien Land Act was found constitutional, then the terms of a new, stricter agreement could be published. The new agreement would have to impose restrictions severe enough to convince the exclusionists that the November initiative was unnecessary. If the anti-Japanese factions were satisfied with the new arrangement, the land acts might be repealed or modified to lighten their discriminatory effects. A stricter system of restriction was also necessary if the acts were struck down by the courts. The new agreement would have to be the equivalent of exclusion in order to keep California from taking further action. Morris stressed that his program would work only if "we adjust our minds to the conclusion that the people of our west coast would not permit any further additions to the population by immigration until time had determined these questions."<sup>11</sup> The Japanese ambassador agreed that a test case should be initiated. As for tightening the Gentlemen's Agreement, Baron Shidehara said he "was quite prepared to discuss that general problem seriously."<sup>12</sup>

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<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

All during the period that California exclusionists agitated for a new alien land law, the State Department worked to calm public feeling in Japan and find a conclusive solution to the immigration problem. Secretary of State Bainbridge Colby, who succeeded Robert Lansing on March 23, 1920, offered to begin talks with Japan on immigration questions, with the emphasis on making the Gentlemen's Agreement more effective.<sup>13</sup> The Japanese were ready to undertake informal talks in early September. Shidehara and Morris began the negotiations on September fifteenth.<sup>14</sup>

By the end of October, 1920, Morris had concluded his unofficial talks with the Japanese ambassador and was optimistic. He reported that "we do not differ much although we do not yet completely agree. I am persuaded by my talks with the Ambassador that it is possible to settle the California issue fairly."<sup>15</sup> Morris added that "indications are that the land law submitted to a referendum vote in California will receive a very large majority."<sup>16</sup> Just before the vote in California, the Department issued a public statement intended to hold down resentment in Japan in the event of the Land Act's passage:

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<sup>13</sup>Memorandum by Secretary of State Colby, August 28, 1920, Foreign Relations, 1920, Vol. III, pp. 14-15.

<sup>14</sup>Morris Report, Foreign Relations, 1921, Vol. II, p. 325.

<sup>15</sup>Telegram, Morris to Acting Secretary of State Davis, October 29, 1920, Foreign Relations, 1920, Vol. III, p. 16.

<sup>16</sup>Ibid.

The movement in California to recast the laws affecting alien land tenure has been receiving since its inception the close and interested attention of the Department of State. The Department has had numerous discussions of the most friendly and candid nature with the Ambassador of Japan and it is believed he thoroughly realizes, as we have sought to make clear, that no outcome of California movement will be acceptable to the country at large that does not accord with existing and applicable provisions of law, and what is equally important, with the national instinct of justice.<sup>17</sup>

The Alien Land Measure passed, with 668,483 votes for, and 222,086 against.<sup>18</sup> The Department's efforts to mollify public opinion in Japan were largely successful. The Charge in Japan reported to the Secretary of State that "in the moderate and pro-government papers the comments have on the whole been sane and optimistic. . . the sensational and anti-government devotes itself chiefly to urging the nation to assume a resolute attitude toward the question."<sup>19</sup>

In the meantime, Morris continued talks with the Japanese ambassador and submitted his full report on January 25, 1921. It displayed a sophisticated understanding of exactly what problems the Department faced, and how they could be dealt with. Morris's most important conclusion was that the Gentlemen's Agreement would have to be significantly changed. He wrote that, in theory, Japan's voluntary

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<sup>17</sup>Telegram, Acting Secretary of State Davis to Charge in Japan (Bell), November 2, 1920, Foreign Relations, 1920, Vol. III, p. 17.

<sup>18</sup>Telegram, Governor Stephens to Acting Secretary of State Davis, December 9, 1920, Foreign Relations, 1920, Vol. III, p. 20.

<sup>19</sup>Telegram, Charge in Japan (Bell) to Secretary of State Colby, November 5, 1920, Foreign Relations, 1920, Vol. III, p. 18.

restriction of emigration was a good idea. He added that he believed the Japanese government had tried to adhere to the agreement. But in practice, it had not worked. No government, Morris said, should be expected "to enforce rigorously against its own people a self-denying regulation which is wholly in the interest of another people."<sup>20</sup> Since Japan had failed at this task, the anti-Japanese factions did not trust it to voluntarily restrict immigration in the future.

To overcome the exclusionists' mistrust, Morris proposed that a new arrangement be negotiated that would give American immigration officials a check on voluntary restriction by Japan. Under the new agreement, Japan would continue to limit emigration by its own volition. To placate the west coast states, the restriction measures could be made so strict as to bring about de facto exclusion. Moreover, any Japanese who violated the law would be deported. Morris believed that the enforcement of a new agreement by the United States would restore the exclusionists' faith in the State Department. In effect, such an arrangement would make a congressional exclusion act unnecessary. Morris believed his plan was feasible because he had found that the Japanese government realized the need for a stricter method of regulation. It was willing to accept exclusion as long as the method did not appear discriminatory.

Still, Morris wrote, a new arrangement to replace the Gentlemen's Agreement was not all that was needed. The problem of the

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<sup>20</sup> Morris report, Foreign Relations, 1921, Vol. II, p. 335.

discriminatory treatment of Japanese in the United States must be met. Morris had continually assured the Japanese ambassador that if emigration from Japan was stopped, conditions for Japanese in America would probably improve. This was his basic argument in persuading the Japanese government to accept the necessity for tighter immigration restrictions. In his own mind, however, Morris was less than certain that once Japanese immigration ended, discrimination would cease. He firmly believed, though, that both exclusion and ending discrimination were essential to a final solution of the California problem.<sup>21</sup> Exclusion would quiet anti-Japanese agitation, but the full restoration of good relations with Japan also depended on ending discrimination against the Issei.

The ambassador's recommendations on how this might be achieved revealed his belief that Californians would not stop their harassment of Japanese voluntarily. Morris's plan was to amend the Japanese-American commercial treaty of 1911 to guarantee Japanese the same rights, except for naturalization, as other aliens in the United States. This would nullify the California Land Acts. The Issei would not have to wait for the legislature to decide to repeal them. Morris described the issue as "a question of policy, not of law."<sup>22</sup> It was in the best interests of the United States, he asserted, to end discrimination. Morris observed that the Japanese were simply asking for the same rights given to other aliens. He believed that stable relations with

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<sup>21</sup>Ibid., pp. 339-344, passim.

<sup>22</sup>Ibid., p. 339.

Japan depended on granting them these rights. The California legislation had stirred in the Japanese "an angry sense of injustice and humiliation."<sup>23</sup> Continued discrimination against the Issei, he said, would harm the United States interests in the Far East:

If we would conserve these interests and exercise the influence in the orient which our position and resources justify, we must as far as compatible with our own national safety avoid actions which are certain to create among the people of Japan feelings of deep resentment and antagonism--feelings which may easily spread to other Asiatic peoples.<sup>24</sup>

Finally, the ambassador informed Secretary Colby that Japan was prepared to negotiate a new immigration agreement, and advised that these talks begin immediately. He pointed out that once further immigration ended, Japanese who were "ineligible for citizenship" would disappear within one generation. Morris saw no use in depriving the current generation of Japanese of rights their children would enjoy. To do so would needlessly harm relations with Japan. If the United States wanted American-born Japanese to assimilate, "we can do nothing that would more effectively defeat that purpose than to discriminate unfairly against resident aliens of that race."<sup>25</sup>

In the last paragraph of the report, Morris stepped outside his official role and told the Secretary his personal feelings about the

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<sup>23</sup>Ibid., p. 342.

<sup>24</sup>Ibid., p. 343.

<sup>25</sup>Ibid.

matter. Only by granting the Japanese naturalization rights, he believed, could a complete solution be achieved.<sup>26</sup> This would ease and eventually end the racial tension between America and Japan. Then exclusion could be justified on less emotional grounds, such as economic necessity, and a final end to the problem might be realized.

Morris's best suggestion had been to abandon the Gentlemen's Agreement, for as long as it existed the exclusionists would not be satisfied. The new arrangement he proposed in its stead might have pleased the exclusionists, since the United States would have the power to enforce Japan's voluntary restrictions. The Japanese government liked his plan, for although it would bring about total exclusion, it avoided the appearance of discrimination.

A new settlement never got past the negotiations stage, however, because of Morris's opinion on granting Japanese naturalization rights. The talks between Shidehara and Morris were not secret. The State Department was acting as an arbitrator, and so kept California Senator Hiram Johnson, who was at this time the leader of the exclusion movement, informed on the progress of the discussions.

Johnson wrote V. S. McClatchy, a well-known anti-Japanese propagandist, that "Morris says that he is inclining personally" towards the feeling "that citizenship (meaning naturalization rights) must be given to those who are here and total exclusion then enforced."<sup>27</sup> Johnson explained to McClatchy that his reaction to Morris's views was that "I

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<sup>26</sup> Ibid., pp. 347-348.

<sup>27</sup> Daniels, Politics of Prejudice, p. 96.

feel the only way to deal with Japan is to stand upon what we have the jurisdiction and the right to do."<sup>28</sup> Johnson did not want Japanese to be granted naturalization privileges: to do so would be "most abhorrent to our people, and of course, would be vigorously resisted."<sup>29</sup> From a national perspective, Johnson said that it would make American citizens of a people who "continue ever to be Japanese, whose allegiance is always to Tokyo, and whose loyalty would ever be, not to the United States, but to Japan."<sup>30</sup> The exclusionists would not accept Morris's stance on naturalization. If Japanese could be naturalized, that meant that they could assimilate, and then there would be no need for exclusion. Thus the exclusionists were inclined not to trust Morris's plans for a new agreement. Morris should have kept his personal views to himself. His talk about naturalization led the exclusionists to believe that the State Department sympathized with Japan. This made it unlikely that the exclusionists would support any State Department solution to the immigration question.

Final negotiations for the new immigration agreement were never begun. Morris retired as ambassador to Japan in March, 1921, at the end of the Wilson administration. Still, the Department had tried to find a solution. Morris's report had shown that the Gentlemen's Agreement was a major cause of the problem and had to be replaced. Japanese immigration must be stopped, and the exclusionists' faith in a diplomatic solution restored.

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<sup>28</sup>Ibid.

<sup>29</sup>Ibid.

<sup>30</sup>Ibid.

## CHAPTER 3

### JAPAN REQUESTS A NEW AGREEMENT

When Charles Evans Hughes took over as Secretary of State, he inherited many problems from the Wilson administration. Assessing the state of American diplomacy, Current Opinion remarked, "There is hardly a phase of our foreign policy that is not hanging in mid-air."<sup>1</sup> One area in dire need of attention was Asia. American relations with Japan were marked by bad feelings. The points of contention--China, immigration, mandates--had produced a bitter antagonism. Talk of war was heard on both sides, and the result was the development of an intense naval rivalry.

Hughes, in one of his first major acts as Secretary of State, capitalized on the popular notion of universal disarmament and organized the Washington Conference. Through adroit statesmanship, the new Secretary was able to ease much of the tension that existed between Japan and the United States. A spirit of cooperation had replaced the mistrust and suspicion.

The exclusionists approached Hughes in March, 1921, with a view towards his reaction to their ideas. Hughes was not a person to be swayed by the exclusionists' emotional appeals. The Secretary of State believed firmly in the use of reason to solve problems. Hughes' faith in reason and in progressive, gradual change came from his college studies of religion and history, and was further developed by

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<sup>1</sup>Merlo J. Pusey, Charles Evans Hughes, Vol. II (New York: The MacMillan Company, 1951), p. 411.

his legal education.<sup>2</sup> As a young lawyer and reformer during the progressive era, as Governor of New York, and as a Supreme Court Justice, he always strove to reach decisions on rational grounds. His personal philosophy was that reason was the most just way of resolving conflict, consequently viewed the exclusionists' non-negotiable position in an unfavorable light. A man of Hughes's philosophical outlook would weigh the facts of the Japanese immigration problem thoughtfully and pay little attention to the exclusionists' emotion-laden arguments.

Japan brought up the subject of immigration with the State Department slightly over a month after the Washington Conference ended. Ambassador Shidehara informed Hughes that his government wanted to work with the State Department to stop discrimination against Japanese in America. He said that earlier conversations between the Japanese government and former Ambassador Morris suggested that a treaty might be the best way. Hughes responded that he would not take any action on the immigration problem.<sup>3</sup> The Secretary of State cautioned the Ambassador that under the current situation "if it was desired to stop the agitation that object could not be attained by taking measures that would only increase it."<sup>4</sup> Proposing a treaty with the intent of

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<sup>2</sup>Betty Glad, Charles Evans Hughes and the Illusions of Innocence: A Study in American Diplomacy (Urbana: University of Illinois Press, 1966), p. 322.

<sup>3</sup>Memorandum of conversation between Charles Evans Hughes and Japanese Ambassador Shidehara, March 25, 1922, Charles Evans Hughes Papers, Container 173, Folder 50, Library of Congress.

<sup>4</sup>Ibid.

abrogating the California Land Acts "would simply intensify and embitter the discussion and the result could not be predicted."<sup>5</sup> He noted that such a discussion would involve two points. The first would be whether the treaty-making power could "deprive the states of their authority to legislate with regard to the holding of lands by aliens."<sup>6</sup> The second point to consider was the academic discussion of the first question in states with no Japanese problem. The Secretary warned that in such debates much anti-Japanese sentiment would be created.<sup>7</sup>

Hughes also based his negative reaction to the idea of a treaty on his belief that, in the long run, anti-Japanese agitation "grew out of a state of sentiment and that it would not decrease until the sentiment was changed."<sup>8</sup> In his logical mind, the solution seemed clear: "The way to correct the sentiment in California and other western states was to make it clear that there was no prospect of Japanese coming in large numbers."<sup>9</sup> Once these states were sure immigration had ceased, he predicted that "the essential fairness of the American people would have ultimate control and there would be a decreasing demand for discriminatory laws."<sup>10</sup>

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<sup>5</sup>Ibid.

<sup>6</sup>Ibid.

<sup>7</sup>Ibid.

<sup>8</sup>Ibid.

<sup>9</sup>Ibid.

<sup>10</sup>Ibid.

The secretary had accurately judged the short-term effects of a new treaty, but his conclusions on the eventual solution of the immigration problem were too simple. Hughes's belief that it would gradually correct itself showed a lack of understanding of the situation in California. He was depending on the Japanese government to restrict emigration. It was unrealistic of Hughes to expect Japan to effectively enforce voluntary limits on emigration. He assumed also that the exclusionists would give time a chance to test Japan's sincerity. The fault with this reasoning was that the exclusionists had, in their opinion, already given Japan sufficient time to honor the Gentlemen's Agreement, and they were not going to wait any longer. Hughes's policy was to let matters stand.

What was needed was a new arrangement. However, because of a shortage of time, an unfavorable political climate in California, and perhaps a lack of information--Hughes decided to postpone indefinitely further action. On a more abstract level, he was firmly convinced that just solutions often required the patience to wait for emotions to cool and reason to prevail. The secretary had decided that this was the case in California.

Although Hughes had refused to cooperate with Shidehara's plan to alleviate discrimination, he did hold out some hope that circumstances could improve. The secretary expressed the belief that the unequal treatment of Japanese immigrants could soon be expected to lessen. He explained that, even though it was not the proper time to take action, Japan's agreement with the United States at the Washington Conference on principles to be applied in East Asia, had made a very good impression on the United States.

Hughes was saying that if Japan adhered to the Washington Conference treaties, American public opinion of Japan would improve and, as a result, discrimination against Japanese aliens would gradually cease. The Secretary of State's main goal was to maintain the aura of good feelings brought on by the Washington Conference. He knew that beginning talks on the immigration question would renew exclusionist agitation which might offset the good that had been accomplished at Washington.

Hughes had ample reason to feel secure in 1922. The Alien Land Act of 1920 was the last recourse the exclusionists could take at the state level. The secretary did not think that an exclusion act would ever be passed by Congress, because he reasoned that the Senate would not jeopardize good relations with Japan over a sectional issue that could be solved by other means. This assumption was most likely based on Congress's tacit recognition of the Gentlemen's Agreement in 1921. A general immigration restriction bill had been debated and passed without Japanese exclusion being mentioned. This confirmed Hughes's inclination to doubt that the exclusionists would take action on the national level. Just as important, on the positive side, Congress had approved the Gentlemen's Agreement by exempting from the general bill's restrictions "aliens coming from countries which are now regulated in treaties and agreements."<sup>11</sup> This meant Congress was satisfied that Japanese immigration was being properly regulated.

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<sup>11</sup>Daniels, Politics of Prejudice, p. 95.

The way Hughes decided to deal with the immigration problem in March, 1922, was adequate for the immediate future. At that time, the exclusionist movement was not a problem. Early in 1921, the exclusionist leaders had decided to wait until another immigration bill came before Congress to introduce an exclusion act.<sup>12</sup> The secretary had made a fairly accurate judgement. Eighteen months later, however, the anti-Japanese factions would not let matters stand. He should have anticipated that they would raise the issue again, because they had sworn to take it to Congress, and that they would not be satisfied with Japan's pledge to enforce the Gentlemen's Agreement. The problem would have to be faced eventually. Hughes's policy would not be acceptable to the exclusionists. He waited for time to convince them that the Japanese were not a threat. Meanwhile, the exclusionists waited for their chance. When a new immigration bill was introduced in the 68th Congress in December, 1923, they made sure it contained an exclusion act.<sup>13</sup> The final conflict between the State Department and the exclusionists had begun.

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<sup>12</sup>Ibid., p. 96.

<sup>13</sup>Ibid., p. 98.

## CHAPTER 4

### THE SENATE VOTES FOR EXCLUSION

The nativist mood in the United States grew stronger in the early 1920's. The country was losing faith in its ability to assimilate diverse types of immigrants. This loss of confidence in America's melting-pot image had begun in the 1890's, when immigrants from southern and eastern Europe began to outnumber greatly immigrants from northern and western Europe. These new immigrants from countries such as Italy and Rumania, held on to their traditional languages and customs instead of adopting the ways of their new country. Nativists warned that the "new" immigrants were a threat to traditional American values, which were Anglo-Saxon Protestant values. What the nativists feared was that the blood of the mongrel races of southern and eastern Europe would defile the pure American race. Nativist propagandists urged that the United States pass restrictive immigration laws to shut out undesirable races.

Support for restriction of immigration grew slowly but steadily, and it reached its peak in the early twenties.<sup>1</sup> Immigrants were blamed for the Red Scare and labor unrest. These were years when Americans tried to stop change and go back to old ways, to "real" American values. The twenties witnessed the experiment with prohibition. The Scopes trial in Tennessee was a clash between modernism and fundamentalism. A revived Klu Klux Klan that claimed to protect traditional

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<sup>1</sup>Higham, Strangers in the Land, pp. 265-277.

American values flourished in the North, the West, and the South.

Immigration restriction was a part of these efforts to solve the country's problems by returning to the past, and especially to a time when America was not threatened by unassimilable immigrants.

In 1922, the House of Representatives began to consider another restrictive immigration law to replace the first one that had passed in 1921. The House Committee on Immigration and Naturalization was dominated by southerners and westerners, men who readily agreed with nativist authors that certain races were biologically inferior and were bound by the laws of heredity to remain that way. The exclusionists sensed that the mood of the country favored immigration restriction. The exclusionist leaders, whose number included House Immigration Committee member John E. Raker of California, saw an opportunity to connect their desire for Japanese exclusion to the movement for general immigration restriction. The proponents of exclusion would later argue before the House Committee on Immigration that if the purpose of immigration restriction was to keep out unassimilable races, then Japanese should be excluded completely, because they were the most unassimilable of all. The leadership of the exclusion movement had "decided that it would be unwise to make this anti-Japanese campaign, but rather to conduct it simply as a movement which no good American citizen could fail to endorse."<sup>2</sup> Further impetus was added to the exclusion movement in November, 1922, when the Supreme Court

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<sup>2</sup>Daniels, Politics of Prejudice, p. 97.

ruled that Japanese aliens were "ineligible to citizenship."<sup>3</sup> This decision meant that the federal government could not end discrimination against Japanese in California by giving them naturalization rights.

The exclusionists' behind-the-scenes lobbying in Congress proved to be successful. When general immigration bills were introduced late in the 67th Congress in December, 1923, the House bill contained an exclusion clause. The session ended before Congress could act, so the bills carried over to the 68th Congress in December. By that time, the House Committee on Immigration, chaired by Albert Johnson of Washington, had completed a report on the House immigration bill. The committee made it clear that restrictions were a necessity. Anticipating criticism from pro-immigrant groups, the committee asserted that the United States, in order to protect its welfare, had an "inherent right" to limit immigration. Furthermore, to block protests from foreign countries, it warned the State Department that it should "recognize no representatives from other countries that interfere or threaten to interfere with that right."<sup>4</sup>

The report was equally blunt on the subject of Japanese immigration. It noted that the Supreme Court had recently ruled that Japanese were not eligible to citizenship. Therefore, the committee felt "fully justified" in endorsing an exclusion act to "correct the

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<sup>3</sup>Ibid., p. 96.

<sup>4</sup>House Report, 67 Cong., 4 sess., p. 19.

so-called 'Gentlemen's Agreement'."<sup>5</sup> Moreover, because the exact provisions of the agreement were unpublished, the committee maintained that the American people, who had a right to know the laws governing immigration, were being kept uninformed.

Committee member John Box of Texas included in the report his study of how various treaties had affected immigration. Box said his investigations showed that it was dangerous to allow presidential control of immigration by treaty. The constant desire of a president to maintain good relations with foreign nations made him and his advisors lean "toward too great a liberality in immigrations."<sup>6</sup> Box, speaking for the committee, was reminding the President and the State Department that the regulation of immigration was the prerogative of Congress. He remarked in conclusion that the Gentlemen's Agreement was an example of presidential irresponsibility in dealing with immigration problems.

The committee asserted that its plan to refuse admittance to "an immigrant not eligible to citizenship" would "end in a satisfactory manner, without friction, a most troublesome problem."<sup>7</sup> The report demonstrated that it had no intention to listen to any attempts by the President and the State Department to persuade it to follow a less harsh policy. The House Immigration Committee based the decision to

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<sup>5</sup>Ibid., p. 9.

<sup>6</sup>Ibid., p. 21.

<sup>7</sup>Ibid., p. 23.

abrogate the existing agreement on the premise that it was not legal and that it infringed on Congress's right to regulate immigration. Therefore, it proposed to end the confusion by replacing the agreement with an exclusion law. There was no mention in the report that an exclusion act might hurt relations with Japan.

The House Committee's concern with clarification of the laws governing Japanese immigration was a cover for their main goal, which was simply to put an end to it. They never considered an alternative to the Gentlemen's Agreement except exclusion. The talk about the need to replace it with a method of restriction authorized by Congress was intended to draw attention from two important questions: one, was it necessary to ban all Japanese immigration; and, two, was this first objective worth the sacrifice of amicable relations with Japan? The committee treated the first question as if it were a foregone conclusion that all Japanese should be barred from the United States. As for the second question, there was no discussion of alternative methods that might settle the immigration problem without an exclusion act.

The subject of Japanese immigration was barely mentioned during the committee's hearings on the new general immigration bill. When it was brought up, none of the members, nor any of the witnesses challenged the exclusionists' contention that Japanese were unassimilable. In several instances, two committee members, John E. Raker from California and Riley J. Wilson of Louisiana, argued the exclusionist case more persuasively than witnesses who represented anti-Japanese groups. For example, John F. Miller, a congressional representative from

Washington, who was to testify in favor of ending Japanese immigration, was so ill-prepared that he did not even know the bill under discussion contained a provision for exclusion. He managed a few vague criticisms of the Gentlemen's Agreement, but was largely unable to make a clear argument. When Raker and Wilson realized that Miller was embarrassingly inarticulate, they took over for him. Once, Miller momentarily forgot about the Japanese and started to describe the Chinese narcotics traffic. Wilson put Miller back to the task by interjecting: "Is it not characteristic of the Jap that he is always designing, and that his final, ultimate purpose is to be Japanese, without regard to the effect in any locality in which he may be?"<sup>8</sup> Miller replied: "That is, he remains a Japanese?"<sup>9</sup> Wilson continued forcefully: "Yes, and not only remains a Japanese, but he premeditatedly designs to do and does things always which are for the good of Japan?"<sup>10</sup> Miller finally saw Wilson's point and said, "Well, that is a predominant vice of the Japs."<sup>11</sup>

Raker was even more helpful. On one occasion, he substantiated Miller's charges that Japanese laborers were still entering the country. Miller said limply that "I know they come, I know they are there."<sup>12</sup>

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<sup>8</sup>U. S. Congress, House, Committee on Immigration and Naturalization, Restriction of Immigration. Hearings on H. R. 5, H. R. 101, and H. R. 561, 68 Cong., 1 sess., p. 109.

<sup>9</sup>Ibid.

<sup>10</sup>Ibid.

<sup>11</sup>Ibid.

<sup>12</sup>Ibid., p. 113.

Raker came to his aid: "In May and June I saw shiploads of them come into Hawaii. So as to the fact they are not coming we know they are coming right along."<sup>13</sup> In another instance, Raker attacked the extra-legal status of the Gentlemen's Agreement by saying, "The fact remains and stares us in the face that we pass laws in regard to every country on earth save and except Japan, and we have no legislation relative to immigration from Japan. That is the status."<sup>14</sup> Albert Johnson of Washington, the committee chairman, gave his tacit approval of the exclusion act by adding immediately: "We are attempting to fix that situation in this bill."<sup>15</sup>

It should be remembered that the foremost question facing Congress in 1924 was how to restrict European immigration, not whether to exclude the Japanese. Various pro-immigration groups, such as the United Foreign Language Editors and the American Jewish Congress, argued before the House committee that the new bill would unfairly restrict the "new" immigration from southern and eastern Europe. These "new" immigrants, those in favor of continued immigration contended, had not caused the country's problems, but had in fact contributed greatly to American life. The proponents of an "open" immigration policy claimed that those in favor of immigration restriction were "declaring the incapacity of America to Americanize."<sup>16</sup>

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<sup>13</sup>Ibid.

<sup>14</sup>Ibid., p. 14.

<sup>15</sup>Ibid.

<sup>16</sup>Ibid., p. 349.

Pro-immigration spokesmen were unconcerned about non-whites. William Edlin, a foreign language newspaper editor who opposed a restrictive immigration policy, testified to the committee that in his opinion, "Every worthy person is entitled to be admitted to the United States as long as the United States is capable of maintaining him."<sup>17</sup> But when Elton Watkins of Oregon asked him: "Do you include in that the Chinese and the Japanese?"<sup>18</sup> He answered, "I am speaking here on behalf of the Caucasian race, to which we all belong. I do not want to take in those races which do not assimilate readily."<sup>19</sup> Then Raker asked Edlin if he believed the Japanese should be excluded. Edlin's reply was "Yes, sir."<sup>20</sup>

Throughout the hearings, things went well for the exclusionists. There was never any debate over whether exclusion would be a wise policy. Even before the hearings were completed, the Japanese government perceived that pro-exclusion sentiment was strong. On December 13, 1923, Ambassador Masanao Hanihara discussed the situation with Secretary of State Hughes. The ambassador pointed out that the bills called for Japanese exclusion. Hughes said he would "look into the matter."<sup>21</sup> It was obvious at the time that there was little opposition within the House to the exclusion measure.

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<sup>17</sup> Ibid., p. 373.

<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid., p. 374.

<sup>21</sup> Memorandum of Hughes-Hanihara conversation, December 13, 1923, Charles Evans Hughes Papers, Folder 50.

The ambassador met with Hughes again on January 15, 1924. He presented the Secretary of State with a memorandum from his government stating that Japan would deeply resent the passage of an exclusion act. The note emphasized that Japan did not care whether or not Japanese immigration to the United States continued. The question was one of principle, not expediency. What concerned the Japanese government was whether Japan "is or is not entitled to the proper respect and consideration of other nations."<sup>22</sup> All Japan asked for was the "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."<sup>23</sup> Hanihara remarked to Hughes that "it would be quite impossible to make the Japanese people understand" how such a law could be passed by the United States.<sup>24</sup>

The Secretary of State assured Ambassador Hanihara that he opposed passage of an exclusion act. He added that he "hoped that the Japanese government would cooperate in any further measures that might be necessary to guard against the immigration to which there was such serious objection."<sup>25</sup> Hughes suggested that the problem be handled "in a practical way."<sup>26</sup> Despite these hints at "further measures" and

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<sup>22</sup>The Japanese Embassy to the Department of State, January 15, 1924, File 711.945/1063, R. G. 59, N. A.

<sup>23</sup>Ibid.

<sup>24</sup>Memorandum of Hughes-Hanihara conversation, January 15, 1924, Charles Evans Hughes Papers, Folder 50.

<sup>25</sup>Ibid.

<sup>26</sup>Ibid.

"practical" solutions, he probably had no intention of taking any action. His reassurances were meant to calm the Japanese.

Hughes was wise to keep his options open by not taking immediate action; he was not, however, giving the matter the serious consideration it deserved. He received two memoranda on January 17 that urged him to act--one from Undersecretary William Phillips and the other from J. V. A. MacMurray, head of the Far Eastern Division. Phillips warned that the Japanese government's note of January 15, "presents a definite issue which, it seems to me, we must meet."<sup>27</sup> The Far Eastern Division, he continued, "feels strongly that the question of the future relations with Japan is involved, and I concur in their judgment."<sup>28</sup>

MacMurray's note began with a call for action. The Japanese government's communication on January 15 "puts squarely up for decision the issue of policy involved in the proposal to prohibit the entry of immigrants ineligible to citizenship."<sup>29</sup> Furthermore, he cautioned that it would be dangerous to underestimate how deeply the Japanese would resent an exclusion act. MacMurray said that the long-range consequences of an exclusion act must be taken into account. He pointed out that there was nothing to fear in the near future; if Congress banned Japanese immigration, Japan would have to accept it, for the Japanese did not have the power to make any "direct and immediate retaliation."<sup>30</sup>

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<sup>27</sup> Letters, Phillips and MacMurray to Hughes, January 17, 1924, File 711.945/1272, R. L. 59, N. A.

<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

<sup>30</sup> Ibid.

Despite this,

it would be a mistake to ignore the fact that we cannot do this without incurring the lasting distrust and antagonism of Japan. The passage of an exclusion act would undoubtedly set American-Japanese relations back to pre-Washington Conference Days.<sup>31</sup>

MacMurray believed that it was imperative that Congress be informed of the possible long-term effects of an exclusion act. If this was not done, Congress might easily pass such legislation, creating "unfortunate consequences that might operate long after the immediate problems and motives of today had been forgotten."<sup>32</sup>

If Hughes had intended to do something about the Japanese immigration problem, the Chief of Far Eastern Affairs and the undersecretary would not have pressed him to take action. Most likely, the secretary intended to hold down the Japanese protests so they would not antagonize Congress. Then, he reasoned, the Senate could look calmly at the problem, and realize that an exclusion act would unnecessarily harm relations with Japan.

Hughes met with Ambassador Hanihara again two days later. The ambassador wanted to discuss the House Immigration Committee's new report, which, according to the press, recommended an exclusion act. Hughes assured Hanihara that the Japanese government should not worry, because the measure was still far from becoming a law. He reminded the ambassador that "The bill would have to be considered in the Senate as well

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<sup>31</sup>Ibid.

<sup>32</sup>Memorandum of Hughes-Hanihara conversation, January 19, 1924, Charles Evans Hughes Papers, Folder 50.

as in the House, and he hoped that undue emphasis would not be paid to the present state of the matter."<sup>33</sup>

Hughes must have decided, however, to follow MacMurray's advice and issue a statement on the exclusion measure. On January 28, the secretary received copies of the new immigration bill from the House Immigration Committee asking for his recommendations. His reply reached the committee on February 8, the day before the bill was to be reported out of committee. Hughes took a definite stand against the exclusion provision. He tried, as MacMurray had suggested, to point out its long-range consequences. He put forth the idea that the Japanese question was one of policy. The important point for Congress to keep in mind was that an exclusion act would harm relations with Japan. The Japanese "are a sensitive people and unquestionably would regard such a legislative enactment as fixing a stigma upon them."<sup>34</sup> The secretary warned that its passage would destroy the good will established between Japan and the United States at the Washington Conference. Hughes presented the basic question of the exclusion controversy as "whether it is worthwhile thus to affront a friendly nation with whom we have established most cordial relations and what gain there would be from such action."<sup>35</sup>

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<sup>33</sup> Ibid.

<sup>34</sup> U. S. Congress, House, Letter, Hughes to Albert Johnson, Chairman of the House Committee on Immigration and Naturalization, February 8, 1924, Congressional Record, 68 Cong., 1 sess., pt. 6, pp. 5585-5587.

<sup>35</sup> Ibid.

Hughes then presented an alternative method of restriction and claimed that an exclusion act, aside from its bad effect on relations with Japan, would not be the best way to stop Japanese immigration. The most effective way to achieve that purpose, he explained, would be to put immigration from Japan under a quota, as if it were a European country. This would allow 2 percent of the number of Japanese in the country in 1890 plus 200 to enter the country. Using this formula, Hughes estimated the number of immigrants would be 246 per year.<sup>36</sup> Hughes also proposed that the Gentlemen's Agreement be maintained. The secretary said that he realized this would permit more Japanese to enter, but he believed, nonetheless, that it would in the long run help hold Japanese immigration to a minimum. His reasoning was this: as long as the agreement remained in effect, the United States would have Japan's cooperation in restricting immigration. Without it, any number of Japanese could leave their country at will and attempt to enter the United States illegally. Hughes predicted that given the long, easily penetrated Canadian and Mexican borders, that large numbers of Japanese would sneak in. Without the Japanese government's help, the secretary warned, illegal immigrants would probably outnumber those who would enter under a quota and the Gentlemen's Agreement. Hughes, therefore, insisted that the present arrangement must be kept if such illegal immigration was to be avoided. The country's borders were just too long to be effectively patrolled.<sup>37</sup>

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<sup>36</sup>Ibid.

<sup>37</sup>Ibid.

The Secretary of State never mentioned the total number of Japanese he expected to enter the country if the Gentlemen's Agreement was retained. The agreement had, in 1923, allowed some 6,000 to pass through United States ports.<sup>38</sup> His plan was unrealistic if he thought Japan could significantly reduce the number of emigrants. It had been trying with little success to do so since 1910. Hughes must have known that the exclusionists would never accept his proposal to keep the agreement. So, instead of attempting to convince them that they were wrong, he intended to reason with the majority of Congress that had, it seemed to him, no self-interest at stake in the exclusion issue. Hughes warned these congressmen that it was better to allow a trickle of Japanese immigrants into the country than cause unnecessary friction with Japan. His opposition to exclusion was based on the broad proposition that it would needlessly harm American-Japanese relations. He must have counted on the logical appeal of his general premise to disguise the flaws in his specific program.

The House Immigration Committee answered Hughes's criticisms in a new report made public on March twenty-fourth. The report claimed that the Gentlemen's Agreement had turned Congress's right to regulate immigration over to the Japanese government, which justified its immediate cancellation.<sup>39</sup> The committee concluded that "the purpose of the agreement as thus explained by Roosevelt has not been carried out,"

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<sup>38</sup> Daniels, Politics of Prejudice, p. 111.

<sup>39</sup> U. S. Congress, House, Restriction of Immigration, Report No. 350, 68 Cong., 1 sess., p. 7.

and therefore recommended that it be replaced by an exclusion act.<sup>40</sup> The committee maintained that Hughes was mistaken in his belief that an exclusion act would harm relations with Japan. Its purpose, the report contended, was to protect United States citizens from a tide of aliens ineligible to citizenship, not discriminate against Japanese. The committee's final argument was that immigration was a domestic issue, and that Japan would have to accept the decision of Congress. The rebuttal to Hughes's letter listed several national organizations that had urged Congress to enact an exclusion measure, including the American Federation of Labor, the American Legion, and the National Grange. The committee claimed that what linked these diverse groups in support of exclusion was a "strong spirit of Americanism."<sup>41</sup> The prevalence of this feeling in Washington would be a major cause of the State Department's failure to stop the exclusion act.

The Secretary of State's plan seemed to be working better in the Senate Committee on Immigration, which held hearings in mid-March. The tone of the hearings there was very different. LeBaron Colt of Rhode Island, the chairman of the Senate committee, and David Reed of Pennsylvania were strong supporters of Hughes's position. Both Senators argued during the debates that a total ban on immigration would damage relations with Japan. They also contended that Hughes's quota plan would be a more effective way to limit the number of Japanese entering

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<sup>40</sup>Ibid., p. 8.

<sup>41</sup>Ibid., p. 9.

the country. The exclusionists responded with their standard arguments--that Japanese were unassimilable, that the Gentlemen's Agreement was not working, and that the Supreme Court had declared Japanese ineligible for citizenship. There was no reason why aliens who held allegiance to a foreign country should be allowed to immigrate.

The exclusionists also claimed that Theodore Roosevelt had promised California an exclusion act if the agreement did not work properly.<sup>42</sup> Colt, in response, suggested that the United States "try diplomacy first."<sup>43</sup> It would be better for American-Japanese relations to discuss the matter with Japan before acting unilaterally. Colt cautioned the exclusionists that, "you have the power to build a spite fence, but you don't always do it."<sup>44</sup> His reasoning did not sway them.

Hughes was prompted to act again when he saw the second House report. He felt that the charges made against the Gentlemen's Agreement must be answered. On March 27, three days after the report was released, Hughes met with Hanihara. The secretary informed him that he was most disturbed by criticism of the agreement on two particular points: first, the charge that it was a secret agreement; and, second, the claim that it had not worked effectively.<sup>45</sup> In meeting the first point, Hughes said that to release all of the Gentlemen's Agreement

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<sup>42</sup>U. S. Congress, Senate, Hearings on Japanese Immigration Legislation, 68 Cong., 1 sess., p. 14.

<sup>43</sup>Ibid., p. 161.

<sup>44</sup>Ibid., p. 157.

<sup>45</sup>Memorandum of Hughes-Hanihara conversation, March 27, 1924, File 711.945/1042½, R. G. 59, N. A.

correspondence would only "give opportunities for further discussion"<sup>46</sup> that would lead nowhere. As for the committee's charges that Japan was not enforcing the Gentlemen's Agreement, he suggested that it would be better if the Japanese government would reply. This would give Japan a chance to express its sincere intentions to reduce emigration, which might offset negative Senate opinion of its previously poor record in doing so. Hughes knew that if the senators were to be convinced of the correctness of his policy, they would have to be shown that Japan would effectively stop further emigration.

The Secretary of State proposed that Hanihara send him a letter that summarized Japan's interpretation of the Gentlemen's Agreement correspondence. He also recommended the inclusion of a list of steps taken by the Japanese government to restrict immigration to America. Such a letter would be "an opportunity to take the Gentlemen's Agreement out of obscurity and of voluminous correspondence and put the matter in a direct and simple form."<sup>47</sup>

Hughes expected the Hanihara letter to accomplish two things. One was to convince the Senate that the Gentlemen's Agreement was not a "secret agreement," but simply a tool to restrict Japanese immigration without creating bad feelings between the two countries. He agreed with the exclusionists that Japanese immigration should be stopped. His argument with them was about the method to be

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<sup>46</sup>Ibid.

<sup>47</sup>Ibid.

used. Hughes intended to persuade the Senate that Japanese immigration could be restricted without damage to relations with Japan.

This goal led to Hughes's second objective in having Hanihara write the letter. The Japanese government could show that it was prepared to restrict emigration and enforce the Gentlemen's Agreement. The secretary counted on this to assure the Senate that exclusion was unnecessary. He believed that the Senate had to be shown that the agreement was imperative in keeping Japanese immigration to a minimum. Then, once the people on the west coast realized that Japanese were no longer coming into the country, anti-Japanese sentiment would gradually lessen. So, in Hughes's mind, maintaining the Gentlemen's Agreement was crucial. He felt that it was the only way the Japanese problem could be solved permanently.

In early March, Hughes took a fateful step. He asked Senate allies LeBaron Colt and David Reed to propose an amendment to the general immigration bill that would exempt from the new law "an alien entitled to enter the United States under the provisions of a treaty or an agreement relating solely to immigration."<sup>48</sup> If the amendment was adopted, it would recognize the Gentlemen's Agreement. Hughes was giving the Senate a chance to reject exclusion. Its passage would mean the senators were satisfied with the executive branch's management of Japanese immigration.

When the Senate immigration bill was reported out of committee, there was no provision for an exclusion act. Hughes had won a temporary

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<sup>48</sup>U. S. Congress, Senate, Congressional Record, 68 Cong., 1 sess., p. 5415.

victory. On the first day of floor debates, Senator Colt immediately proposed the amendment that Hughes had suggested. He explained to his fellow senators that "we have left the Japanese question to be settled by diplomacy."<sup>49</sup> He admitted, however, that debate on the subject was not closed. This was because an important member of the immigration committee, Hiram Johnson, had been away during the committee hearings. The senior senator from California and leader of the exclusion movement was off campaigning for the Republican presidential nomination. Colt explained that hearings on Japanese immigration were kept to a minimum because of Senator Johnson's absence. He then suggested that the matter could be resolved in floor debates. Colt and Reed undoubtedly hoped that Johnson would remain absent.

For the State Department and its few supporters in the Senate, the debates were short and dismal. Many senators, especially those from the South, supported the racial ideas of the exclusionists. The issue cut across party lines because, given the restrictionist mood of Congress and the nation, favoring Japanese exclusion was a safe political stance. So, although Hughes's plan was identified as the Republican administration's position, the Republicans in the Senate did not close ranks behind it.

There is no record of Hughes attempting to gain support for his position by any means other than the logic of his arguments. The secretary had rarely used political leverage in his career, even when

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<sup>49</sup> Ibid.

he had been governor of New York,<sup>50</sup> he would not make use of the power of the office to further his programs. Instead he expected to win the support of public opinion, which would in turn force the legislators to support his position. In the case of the Japanese exclusion issue, Hughes had taken his stand on rational grounds and expected that reason alone would be enough to convince the Senate that he was right.

On the second day of debate, April 8, the main subject was not the necessity for exclusion, but who should control Japanese immigration. Senator Reed had been trying to explain Hughes's plan when Shortridge of California accused the State Department of infringing on the Senate's constitutional powers. Referring to the Gentlemen's Agreement as an effort by the executive branch to make treaties without Senate approval, Shortridge said:

I do not propose now or hereafter to admit that any Secretary of State or President can enter into treaties between this country and any other country. If we are going to abdicate as Senators, let us abdicate. I am not going to allow the country to abdicate, and that is what some Senators here are asking the country to do.<sup>52</sup>

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<sup>50</sup>Robert F. Wesser, Charles Evans Hughes: Politics and Reform in New York, 1905-1910 (Ithaca, New York: Cornell University Press, 1967), p. 343.

<sup>51</sup>Ibid.

<sup>52</sup>U. S. Congress, Senate, Congressional Record, 68 Cong., 1 sess., p. 5415.

Shortridge's appeal to the Senate's jealousy of its treaty-making power seemed to sway his colleagues more than Reed's appeal to reason. The agreement and the State Department would be criticized again on the same grounds later in the day when Colt and Reed's amendment came up for debate. The amendment, it will be recalled, provided for the exemption from immigration legislation those aliens who would enter the country under "an agreement relating solely to immigration." On this amendment rested the fate of the Gentlemen's Agreement. Senator Claude A. Swanson of Virginia charged that the Gentlemen's Agreement was "indefinite as vapor."<sup>53</sup> Swanson said that he opposed surrendering to Japan, via the agreement, the United States' right to regulate immigration.<sup>54</sup>

Alva B. Adams of Colorado also criticized the amendment. He described it as

a wide open provision by which anything which can be termed an agreement would take that particular arrangement outside of the treaty-making provisions. In other words, it puts into the hands of the executive department the rights to repeal or modify the immigration laws of the United States.<sup>55</sup>

Swanson probably summed up the feelings of most of the senators when he added:

I am tired of the State Department entering into agreements fixing the foreign policy of this country except by treaty.

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<sup>53</sup>Ibid., p. 5828.

<sup>54</sup>Ibid., p. 5829.

<sup>55</sup>Ibid.

The Constitution determines how the foreign policy of this country shall be fixed. I am tired of people making understandings of the force and effect of treaties and committing us in foreign matters so as to avoid coming to the treaty-making power. I am certainly opposed to it. I am especially opposed to surrendering a domestic question to the secretaries of the foreign departments. Immigration is a domestic question, to be settled by the law of the United States and not by Cabinet officers. It is time for Congress to let it be understood, both here and abroad, that the matter of immigration is a domestic question to be settled by the people of the United States.<sup>56</sup>

Swanson had made a valid point, that the Senate's constitutional powers were involved, and guarding these powers seemed to worry the senators more than the possibility of offending Japan.

These scathing criticisms of the Gentlemen's Agreement and the State Department came from Virginia and Colorado, two states not directly influenced by the Japanese question. Their support of the exclusionist position indicated that Shortridge had been more influential than Colt or Reed. No one spoke up in support of the two senators who advocated Hughes' plan. None of the senators who favored an "open" immigration policy challenged Shortridge. There was no reason for any senator who favored the restriction of European immigrants not to favor the restriction of Japanese immigrants. As for the question of how the Japanese would be restricted, Shortridge's plan seemed to have more appeal than Hughes's did. The Senate was in no mood to leave the Japanese question to diplomacy, as Colt suggested. It wanted to protect its right to regulate immigration and was not likely to agree with the secretary's plan, under which it would relinquish its authority to regulate immigration. Perhaps the senators felt that if they gave

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<sup>56</sup>Ibid.

State the responsibility for the regulation of Japanese immigration, the executive branch might try to encroach even further on Congress' right to control immigration.

By April 8, any attempt by the State Department to stop exclusion was probably futile. Any further overt efforts by State would have drawn additional criticism to itself and the Gentlemen's Agreement. The Senate was not so much supporting the exclusionist cause as reacting against what they perceived as an infringement on their constitutional powers. The senators showed no particular concern over the possibility of straining relations with Japan. They were more concerned with preserving their constitutional powers.

Hughes was undoubtedly aware of the sharp criticism the Gentlemen's Agreement received on April 8. The letter summarizing the agreement that the secretary had asked Hanihara to write probably reached him April 9. That day, Hiram Johnson returned to Washington and made a speech on the necessity of Japanese exclusion. Kenneth McKellar of Tennessee and J. Thomas Heflin of Alabama, both of whom agreed with the exclusionists that America must remain a white man's country, also spoke in favor of ending Japanese immigration. In response, Hughes forwarded the Hanihara note to the House and Senate, hoping to dispel the mystery surrounding the Gentlemen's Agreement and show that Japan had limited immigration.

Ironically, the Hanihara note sealed the fate of the Gentlemen's Agreement, and thus State's efforts to stop the exclusion measure. It also made it impossible to determine what the margin of victory for the exclusion measure would have been if the Hanihara note had not

turned almost every member of the Senate in favor of it. The letter contained all that Hughes had asked. The trouble was to come from the note's conclusion. Hanihara wrote:

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 happy and mutually advantageous relations between our two countries.<sup>57</sup>

The letter caused no particular stir when it was received by the House and Senate on the eleventh. Some newspapers were surprised that Japan would make such a protest, but that was all. Three days later, however, Senator Henry Cabot Lodge, Chairman of the Senate Foreign Relations Committee, accused the Japanese ambassador of making a "veiled threat." Lodge claimed that Hanihara's use of the phrase "grave consequences" was intended to deter Congress from passing an exclusion act:

The U. S. cannot legislate by the exercise of any other country of veiled threats. Owing to this, what we are now doing assumes the character of an international precedent; and I think it should be understood, and understood by the whole world, that the United States alone is to say who shall come into the United States to form part of its citizenship.<sup>58</sup>

Lodge's interpretation of the phrase "grave consequences" as a "veiled threat" may have been the cover for other motives. No

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<sup>57</sup>Letter, Hanihara to Hughes, April 10, 1924, File 711.945/1043, R. G. 59, N. A.

<sup>58</sup>Henry Cabot Lodge speech, Foreign Relations, 1924, Vol. II, p. 376.

other legislator interpreted the Japanese ambassador's language as threatening when the note was received in the House and Senate. If the tone of the note had been threatening, many Congressmen would surely have called attention to it at once. Not even the leaders of the exclusionist forces noticed anything unusual. If there had been even the vaguest suggestion of a threat by Japan, they would have been the first to point it out. When exclusionists made their reply to the ambassador's note the day after it was entered into the Congressional Record, they made no mention of the phrase "grave consequences."<sup>59</sup>

One thing Lodge may have wanted to do was put an end to the executive's involvement in shaping the nation's immigration policy. Lodge was a xenophobe who had campaigned for immigration restriction since the 1890's.<sup>60</sup> The immigration restrictions he had worked for all his life were finally about to be enacted in 1924. Colt's amendment was, for Lodge, a threat. It could allow the executive branch to supercede Congress's constitutional power to control immigration. At the moment, Lodge may have reasoned, Hughes might have wanted only to exempt Japanese entering under the Gentlemen's Agreement from the immigration law. But the amendment did not specify that it applied to Japanese immigrants. It exempted from the new law "any alien entitled to enter the United States under the provisions of a treaty or an agreement relating solely to immigration." In the future, the executive branch might use this clause to allow more immigration than

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<sup>59</sup>U. S. Congress, Senate, Hearings on Japanese Immigration, p. 170.

<sup>60</sup>Higham, Strangers in the Land, p. 96.

a quota provided for simply by negotiating an agreement with the particular country. Italy and Rumania had already protested that their quotas were too small, and Hughes had been sympathetic to their arguments. Therefore, if Japan were given an exemption from the immigration law, other countries might persuade the State Department to grant them the same privilege by executive agreement. This, to a staunch restrictionist like Lodge, could undo what he had fought for during the last thirty years. So, by attacking the Hanihara note as a "veiled threat," Lodge intended to turn Senate opinion against the Japanese, which would defeat the Hughes-Colt amendment and end any possibility of interference with the restriction of European immigration.

Another explanation for Lodge's action was his opposition to anything Calvin Coolidge supported.<sup>61</sup> The President backed Hughes's plan, so Lodge took the opposite side. He did this even though he and Hughes had a good working relationship. The two men had cooperated several times in the past. With an eye toward the Senate's reception of the Washington Conference treaties, Hughes had chosen Lodge to serve on the American delegation.<sup>62</sup> He had also allowed Lodge to present the Four-Power treaty that resulted from the Conference to the Senate. When Hughes began his campaign for American participation in the World Court in 1924, he had turned to Lodge for support.

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<sup>61</sup>Karl Schriftgiesser, The Gentleman from Massachusetts: Henry Cabot Lodge (Boston: Little, Brown and Company, 1944), p. 360.

<sup>62</sup>Pusey, Charles Evans Hughes, p. 459.

Coolidge and Lodge, however, had little use for each other. Lodge had long led the Republican party in Massachusetts, but by the 1920's, Coolidge and his backers were taking control of the state's politics.<sup>63</sup> A resentful Lodge fought Coolidge in the Senate over several important bills, and so it went with Japanese exclusion.<sup>64</sup> Lodge's remarks on the Hanihara letter were a way to retaliate against the Coolidge administration.

Whatever the motives, Lodge's accusation turned the question before Senate from the method by which Japanese immigration would be restricted to whether the Senate would allow Japan to intimidate it into keeping the Gentlemen's Agreement. Very few senators were likely to vote to retain it under such circumstances. The Senate would not be coerced, and even Reed, Hughes's ally, decided to vote for exclusion. In the debate following Lodge's declaration that a "veiled threat" had been made, Reed said:

I think the situation has changed. . . .The letter of the Japanese Ambassador puts the unpleasant burden upon us of deciding whether we will permit our legislation to be controlled by apprehensions of 'grave consequences' with other nations if we do not follow a particular line of legislative conduct. I, for one, feel compelled, on account of that veiled threat, to vote in favor of exclusion.<sup>65</sup>

Apparently other senators who may have been in favor of the committee's amendment felt the same way. When the vote on the amendment

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<sup>63</sup> Schriftgiesser, Gentleman From Massachusetts, p. 359.

<sup>64</sup> Ibid., p. 360.

<sup>65</sup> Congressional Record, 68 Cong., 1 sess., p. 6305.

that would have recognized the Gentlemen's Agreement was taken, it was defeated, 76 - 2. Lodge's act of labeling the Hanihara note a veiled threat had turned the Senate against the Japanese. In all probability, the agreement was finished before the Hanihara note arrived, but the resentment stirred up by the note created a landslide. Hughes knew that fundamentally it was congressional jealousy of its power to regulate immigration that defeated his plan, not the uproar over the Hanihara note. The secretary explained to the American ambassador in Japan: "The apparent disposition of Congress at the present, and as it may be foreseen to remain indefinitely, is to assert complete legislative control over immigration matters."<sup>66</sup>

As Secretary of State, Charles Evans Hughes believed that harmony among nations depended on the reason and self-restraint of the leaders. He felt that differences between countries could be settled by rational discussion. By that process, divisive issues could be faced clearly, without being distorted by emotionalism. The Washington Conference was the best example of an attempt by Hughes to settle problems by rational mediation.<sup>67</sup> In dealing with the Japanese exclusion issue, Hughes made an appeal to the reason of the Senate. He tried to convince the senators that exclusion would needlessly strain relations with Japan. The secretary told them that

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<sup>66</sup>Telegram, Hughes to Ambassador in Japan (Woods), May 14, 1924, File 711.945/1089, R. G. 59, N. A.

<sup>67</sup>Glad, Charles Evans Hughes and the Illusions of Innocence, p. 324.

he agreed that Japanese immigration should be severely restricted, but that he did not feel exclusion was the proper method. So, Hughes expected that if his plan were adopted, the United States would not insult Japan's pride, and friendly relations could be continued. He did not anticipate that the Senate would be more concerned with guarding its control over immigration than maintaining stable relations with Japan. Hughes's plan required that it give up some of that control, which it would not do.

Whether the Secretary's plan would have been more efficient is questionable. If Japan could have managed to limit its emigration rate to under 1,000 per year, Hughes's claim to have a more effective solution would have been justified. It was unlikely, however, that the Japanese government could effectively impose such a harsh restriction on its people. Still, Hughes knew that while his proposal might or might not have been more restrictive than exclusion, it was certainly better for overall Japanese-American relations. The secretary's main goal was to keep the general feelings between Japan and the United States on the current friendly basis that had been established at the Washington Conference. If this could be done, and if Japan could hold down emigration, Hughes believed the problem in California would gradually solve itself.

The final confrontation over exclusion, then, was between Hughes and the Senate, not Hughes and the exclusionists. His major mistake in judgment, nevertheless, was not taking action to meet the exclusionist challenge earlier. Hughes feared that a confrontation with them in 1922 would have caused anti-Japanese activity to increase.

But if he had faced the problem then, he would have had time to bargain before they took their cause before Congress. The secretary must have thought that if an exclusion act was introduced, reason would keep the legislators from passing it. This assumption seemed logical in 1922, because the year before, Congress had recognized the Gentlemen's Agreement. Despite this, Congress had also passed a very harsh restrictive immigration law, which should have warned Hughes that the legislators would be receptive to the idea of an exclusion act.

Another factor that should have motivated Hughes to act was Japan's willingness to negotiate a new immigration arrangement. This would have given the secretary some flexibility in talks with the exclusionists. A new agreement could have been at least based on the Morris-Shidehara conversations. The understanding reached at these talks, which Japan accepted, was that any new arrangement would have to have the effect of total exclusion. If Hughes had chosen to open talks in 1922, he could have tailored the new arrangement to satisfy exclusionist demands, and might perhaps have convinced them that a federal exclusion act was unnecessary. The exclusionists' main grievance, the Gentlemen's Agreement, could have been revised, and American immigration officials could have been empowered to double check passports and deport any illegal immigrants. Furthermore, some provision could have been made for cancellation of an American-born Japanese's status of dual nationality. This would mean that Japanese born in America would no longer be citizens of both Japan and America. They would be American citizens only.

Hughes might have taken these steps to calm exclusionist fears. Then he could have promised them that if, after a reasonable amount of time, Japanese immigration did not cease, more drastic measures would be taken. In addition, Hughes could have negotiated the settlement as a treaty. Then Congress would have felt that its power to regulate immigration was secure, since the new arrangement required Senate approval. This plan might have, in 1922, won more support in the Senate than the exclusionists' method.

Hughes chose, however, to admonish Japan to keep emigration down, and left the problem to work itself out. He put off facing the exclusionists and reminded Japan that an end to discrimination against Japanese in America depended on its adherence to the Washington Conference treaties, which would in turn bring America's good will. Hughes's policy of waiting did not work. An exclusion act was introduced in Congress, and then it was too late to negotiate with its sponsors. When he saw the support the exclusionists had in the House, he decided to act. But instead of listening to the secretary's appeal for reason and restraint, Congress chose to handle the immigration problem itself. The possibility of antagonizing Japan would not keep it from passing an exclusion act. So, despite Hughes's proposal of an alternative method of restriction which he claimed would be more efficient than exclusion, Congress voted to abrogate the Gentlemen's Agreement.

After the Senate passed an exclusion act to replace the Gentlemen's Agreement, the general immigration bill went into a House-Senate conference committee. While the two versions of the bill were being

tailored into one, Coolidge and Hughes quietly proposed to the committee members that they delete the exclusion clause and insert in its place an amendment that provided for the negotiation of a new immigration treaty with Japan.<sup>68</sup> The plan ran into strong opposition and, consequently, the administration abandoned it. The President and Secretary of State also tried, unsuccessfully, to amend the exclusion provision so that it would not take effect until one year after passage.<sup>69</sup> Finally, since the Immigration Act of 1921 would expire in June and leave the country without an immigration law, Coolidge was compelled to approve the general bill with exclusion act still included. With this decision made, the Secretary of State did not hold out any false hope to Japan that it might be changed at the last minute. He notified Ambassador Hanihara that the President had done all he could.<sup>70</sup>

There was deep bitterness throughout Japan when it was learned there that Coolidge had signed the immigration bill.<sup>71</sup> Still, the Japanese government assured the State Department that it would make "every effort to prevent popular outbreaks and to allay public feeling."<sup>72</sup> The American ambassador in Tokyo wired Hughes that the

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<sup>68</sup>Rodman Paul, The Abrogation of the Gentlemen's Agreement (Cambridge, Harvard Phi Beta Kappa Society, 1936), p. 91.

<sup>69</sup>Ibid., p. 94.

<sup>70</sup>Hughes-Hanihara conversation, May 23, 1924, File 711.945/1103½, R. G. 59, N. A.

<sup>71</sup>Telegram, Woods to Secretary of State, May 28, 1924, File 711.945/1113, R. G. 59, N. A.

<sup>72</sup>Ibid.

Japanese government realized that violent protest would do no good, and that the only hope was to appeal to the American sense of fair play.<sup>73</sup> He concluded that Japan's leaders realized that "this course will be most profitable to Japan through its beneficial effect on world opinion coming as it does at a time when general outbreaks of violence might have well been expected."<sup>74</sup>

Because of this attitude on the part of Japan, the passage of the exclusion act did not precipitate a crisis in American-Japanese relations. Japan's foreign minister voiced his government's position at a speech before the Diet in late January, 1925: "Impetuous mood or impassioned utterances will not conduce international understanding."<sup>75</sup> The American ambassador, in a telegram to Hughes, assessed this statement as "fair and judicious."<sup>76</sup> As far as the State Department was concerned, then, the Japanese question had been resolved.

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<sup>73</sup>Telegram, Woods to Secretary of State Hughes, June 4, 1924, File 711.945/1127, R. G. 59, N. A.

<sup>74</sup>Ibid.

<sup>75</sup>Telegram, Bancroft to Secretary of State, January 25, 1925, File 711.945/1251, R. G. 59, N. A.

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