Nevada's odd response to the "Yellow Peril": Asians and the Western ineligible alien land laws

Lance David Muckey

University of Nevada, Las Vegas

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NEVADA'S ODD RESPONSE TO THE
"YELLOW PERIL": ASIANS AND
THE WESTERN INELIGIBLE
ALIEN LAND LAWS

by

Lance David Muckey
Bachelor of Arts
University of Northern Iowa, Cedar Falls, Iowa
2001

A thesis submitted in partial fulfillment
of the requirements for the

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Lance David Muckey

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Examination Committee Chair

Dean of the Graduate College

Examination Committee Member

Examination Committee Member

Graduate College Faculty Representative
ABSTRACT

Nevada's Odd Response to the "Yellow Peril": Asians and the Western Ineligible Alien Land Laws

by

Lance David Muckey

Dr. David Tanenhaus, Examination Committee Chair
Associate Professor of History
University of Nevada, Las Vegas

On November 4, 1924, the voters of Nevada amended the state constitution to bar foreigners from owning land. A mere twenty-two votes decided the outcome of the election. This was the first step toward the passage of an ineligible alien land law that would have prevented land ownership by Japanese or persons of any other nationality deemed ineligible for United States citizenship by Congress. For reasons not completely understood, Nevada's lawmakers never passed further anti-Japanese legislation. This study examines Japanese immigration and the growth of anti-Japanese agitation across the American West, and specifically in California, between 1885 and 1924 in order to understand how this influenced the decision of the Nevada Legislature to try to institute racially discriminatory legislation.
# TABLE OF CONTENTS

ABSTRACT ................................................................. iii

LIST OF TABLES ......................................................... vi

ACKNOWLEDGEMENTS .............................................. vii

INTRODUCTION ........................................................... ix

CHAPTER ONE THE CHINESE EXPERIENCE IN AMERICA AS A PRELUDE TO THE "YELLOW PERIL," 1890-1882 ................................. 1
Chinese Immigration to America, 1847-1882 ........................................... 3
Chinese Employment in the American West and the Anglo Response .......... 8
Anglo Efforts to Exclude the Chinese ......................................................... 13

CHAPTER TWO THE JAPANESE DIASPORA ............................................ 24
Events Leading to Japanese Emigration ..................................................... 25
The First Japanese Emigrants and Hawaii .................................................. 29
Japanese Immigration to the United States ................................................. 34

CHAPTER THREE NATIVISM AND THE JAPANESE IN CALIFORNIA, 1895-1913 .................................................. 38
Japanese Immigrant Occupations ............................................................... 40
Japanese in Western Agriculture ................................................................. 43
Changing Anglo Perceptions of the Japanese .............................................. 46
The "Japanese Problem" ............................................................................. 51
California and the Alien Land Laws ......................................................... 60

CHAPTER FOUR NEVADA'S "ILEGIBLE ALIEN" LAND LAW ............... 67
No Japanese Question in Nevada ................................................................. 69
Nevada's Early Attempts at Anti-Japanese Legislation .............................. 78
Nevada Takes A Stand ................................................................................. 86

EPILOGUE ........................................................................... 100

TABLES ............................................................................... 107

APPENDIX A: CHINESE PROSTITUTE CONTRACT ............................. 114
APPENDIX B: BURLINGAME—SEWARD TREATY OF 1868................................. 115

APPENDIX C: ANTI-JAPANESE RESOLUTIONS FROM
FALLON, NEVADA, 1920............................................................................................. 116

APPENDIX D: “INELIGIBLE ALIEN” LAND LAWS, CALIFORNIA .................... 120
First California Ineligible Alien Land Law, 1913 ......................................................... 120
Second California Ineligible Alien Land Law, 1920.................................................... 123
Third California Ineligible Alien Land Law, 1923....................................................... 128

APPENDIX E: “INELIGIBLE ALIEN” LAND LAWS
OF SELECT WESTERN STATES .................................................................133
Washington ........................................................................................................................... 133
Arizona ................................................................................................................................... 136
Oregon ................................................................................................................................... 138
Montana ................................................................................................................................ 143
Kansas ..................................................................................................................................... 146
Wyoming ................................................................................................................................. 151
Arkansas ................................................................................................................................. 153
Utah ........................................................................................................................................ 154
Idaho ......................................................................................................................................157

BIBLIOGRAPHY...........................................................................................................162

VITA ............................................................................................................................................174
LIST OF TABLES

Table 1  Chinese arrivals in the United States, 1852-1884 ............................................... 107
Table 2  Previous Occupations of Japanese Immigrants to the United States, 1901-1909 .........................................................................................108
Table 3  Yearly Number of Japanese Immigrants to the United States, 1869-1914 ..... 109
Table 4  Japanese and Total Immigration to the United States, by Decade....................... 111
Table 5  Population of Chinese and Japanese in the United States, by Decade, 1870-1930 ...................................................................................................111
Table 6  Comparison of Economic Success of the Japanese with Other Farmers............112
Table 7  Population of Japanese and Chinese in Select States, 1890-1920 .................... 113
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vii
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Any errors or misinterpretations contained herein are the sole responsibility of the author.
INTRODUCTION

The mountains, valleys, hills, and plains of Nevada are echoing the sweet refrain and extending the hand of welcome to all 'home hungry' men and women who are willing to work and wait for the fruition of their most cherished dreams. Come to Nevada where prosperity, health, happiness, peace, and plenty await you with open arms. Come to the land of perpetual sunshine where there is yet a chance to get your share of Uncle Sam’s heritage which is yours by right of inheritance.


The undisputed fact that the problem of yellow races is one of national rather than sectional importance and should be treated...as a national issue....We would contend that the Japanese question is rapidly approaching an importance to the country at large equally as great as the negro [sic] problem to the south, and by recognizing it as such its treatment should be immediate and thus avoid mistakes not unlike those made by the south by delaying too long the treatment of its sectional problem.

— Ely Weekly Mining Expositor (Ely, NV), February 13, 1909.

In 1923, after years of effort, the Nevada Legislature managed to present the people of the state a solution to the “Japanese problem” that had long simmered in the imagination of Anglos across the American West. They proposed a constitutional amendment as a ballot initiative in the next general election that would repeal Article 1, section 16 of the Nevada constitution, which granted foreigners the same property ownership rights as native-born citizens. On November 4, 1924, the voters of Nevada approved this amendment by 6,150 yeas to 6,128 nays; a slim margin of twenty-two votes decided the issue.
In essence, the paragraph above is a summary of Nevada’s attempt to pass an ineligible alien land law to prohibit Japanese immigrants from owning real property within the state. Yet, it is far different from the alien land laws that other Western states adopted which were easily identifiable and contained precise language that specifically excluded ineligible aliens from owning land. A study of alien land laws in general has revealed that most scholars do not recognize Nevada’s constitutional amendment as this type of legislation. The reason for this is that there never was an ineligible alien land law entered into the Statutes of Nevada. This was odd, there should be an alien land law; after all, the process to implement it began with the amendment to the constitution, the state Attorney General delivered an opinion on a proposed alien land law in 1919, why then was it not carried through?¹ This thesis explores this question through the larger lens of the development of anti-Japanese agitation in the American West with an emphasis on the events that occurred in California.

Scholarship on the anti-Japanese ineligible alien land laws of the West is meager when compared to scholarship on other areas of the Japanese-American experience. For instance, the Japanese internment during World War II remains a popular topic for scholars and there are many well-written books that document the lives of ordinary Japanese during the interwar years, including the discrimination that they suffered and their contributions to the development of Western agriculture.² On the other hand, a year


² Jeanne Wakatsuki Houston and James D. Houston, Farewell to Manzanar (New York: Bantam Books, 1973); Roger Daniels, The Decision to Relocate the Japanese Americans (Philadelphia: J. B. Lippincott Company, 1975); Peter Irons, Justice at War:
of research yielded only two authors who recognized that Nevada’s constitutional amendment barring the rights of foreigners to own land was indeed a form of an alien land law.\(^3\)

Works that do deal with the ineligible alien land laws fall into three categories. The first group, written between the 1910s and 1930s are contemporaneous with the passage of the majority of the alien land laws. Scholars of this period mention these laws in passing without providing a critical analysis of them. Instead, their studies provide rationales both for and against continued anti-Japanese agitation.\(^4\) In addition, they either tended to focus on California’s land law, because it was the first one drafted or because


the final version that appeared in 1923 was the most comprehensive statute of this type in any state. The most analytical author on the subject of the first alien land law in California was H. A. Millis, who devoted an entire chapter to the topic.\(^5\)

The next wave of serious book length literature to mention the subject of ineligible alien land laws began in the 1950s and continues through today. Unfortunately, in these works the land laws receive brief attention and are only discussed in the broader context of the Japanese experience whether it is racism, nativism, exclusion, immigration, or citizenship.\(^6\) Not all scholars ignored the land laws, however, Masakazu Iwata does provide numerous examples of how these laws adversely affected individual Japanese in California and Washington.\(^7\)

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The best accounts of the alien land laws emerge from journal and law review articles. Most of these articles, however, discuss the legal aspects of these laws rather than their origins. Still, they provide insight about what state legislatures were trying to do when they wrote these laws and represent alternative ways of thinking about the issues of prejudice, racism, citizenship, and exclusion.8

Initially, the study of the Nevada Legislature’s experience with an alien land law appeared quite promising as a research topic for a lengthy project such as a master’s thesis. An event as important as an amendment to the state constitution in order to deny foreigners the right to own property should have prompted a lively debate among Nevadans. Ideally, a researcher might imagine that records of these discussions would exist in archives of local newspapers from the period. There should also be legislative records containing notes of the debates on the measure in the Senate and Assembly. Even better, notes from the various legislative committees that the proposed bill undoubtedly passed through should provide an abundance of information. Unfortunately, these sources are not extant.

Combing through Nevada newspapers provided only snippets of information on the

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origins of the alien land law/constitutional amendment. Since the Nevada Legislature met biennially for sessions that generally lasted sixty days, there was naturally little news from the state house on the issue. Still, a few articles indicated that lawmakers were concerned about the presence of Japanese in the state as early as 1907. During 1924, the year scheduled for the amendment to go before voters, there was virtually no mention of it. What logically should have been a major political topic was not. Furthermore, editorials and articles in these newspapers occasionally warned of a vague Japanese threat to the state or the West Coast unless Congress immediately stopped immigration from Japan. Overall, it was obvious that between 1907 and 1924, a general anti-Japanese sentiment existed in the Nevada newspapers, yet the available sources do not adequately explain why.

There should have been some logical explanation for these feelings. Perhaps, a large population of Japanese resided in Nevada and this contributed to the negative attitude of the press in some way. An examination of census data quickly revealed that this assumption was incorrect, between 1900 and 1920, fewer than nine hundred Japanese lived in Nevada at any one time. If the Japanese residents of Nevada were heavily involved in vice or crime this too might explain their portrayal in such an unfavorable light. Yet, penitentiary records showed that the incarceration rate of Japanese was insignificant.

Turning to legislative records for answers initially revealed little useful information. Almost all of the remaining documentation regarding the 1924 constitutional amendment is in the Journals of the Assembly and Senate and their companion volume the Appendix

xiv
to the Journals of the Assembly and Senate, yet these books are not terribly helpful in interpreting history. It is true that they allow a researcher to trace the progress of a bill through the legislative process, yet no record of any floor debates or committee minutes that these bills generated exists. This seemed impossible, although correspondence with the Research Library of the Nevada Legislative Counsel Bureau confirmed that this was indeed true. Until 1973, standing committees were not required to keep minutes of their meetings. The earliest minutes that do exist only date back to 1965 and are incomplete.

In fact, the legislature was not the only governmental entity that kept no records; calls to the Nevada Attorney Generals Office and the State Bar of Nevada, both of which had a role in the anti-Japanese agitation of the 1920s, revealed the fact that few records existed from the 1920s era.⁹

Of course, other venues for the dissemination of information existed during the period in the form of fraternal organizations, church socials, town meetings, and public lectures. Indeed, judging from the amount of newspaper advertisements announcing the meetings and other activities of local fraternal organizations across the state in the 1910s and 1920s it is evident that they provided a popular method of socializing. Yet, what these events contributed to the public’s understanding of the amendment or the development of anti-Japanese sentiment remains unknown since notes or minutes from these forums are not extant.

The lack of specific information on Nevada's constitutional amendment forced this project to expand into a study of anti-Japanese agitation in the American West in order to understand the role that this played in formulating the Nevada Legislature's decision to amend the constitution. Because the prejudice against the Japanese did not develop in a vacuum, it is necessary to include details of the earlier experience of the first Asian immigrants to the United States, the Chinese. Their arrival in the 1850s marked the beginning of a wave of anti-Asian sentiment along the West Coast that did not subside for at least a century. The timing of the initial Japanese immigration in 1885 was unfortunate since it followed so closely on the heels of the 1882 Chinese Exclusion Act. Anglos in California, Oregon, and Washington were quick to discriminate against the Japanese. They justified their actions using the same economic argument that they had against the Chinese, which was that the Japanese posed a threat to Caucasian jobs. This forced the Japanese, like their Chinese predecessors, to seek employment in niches where they did not have to compete against the whites. Ironically, the very success of the Japanese in their agricultural endeavors generated increased racial animosity. At the turn of the twentieth century, the organized labor movement in California was a powerful force and spearheaded the effort to halt further Japanese immigration. By 1913, the California Legislature responded by passing the first of three alien land laws that attempted to drive the Japanese from the state. Nevada politicians favored these acts and tried to pass similar legislation after the First World War, but only succeeded in amending the state constitution.

In a sense then, the "Japanese problem" on the West Coast and Anglo response to it was a continuation of the anti-Asian agitation that began during the mid-nineteenth
century. Chapter One examines the immigration of the Chinese to America and development of anti-Chinese agitation across the American West between 1850 and 1882. This provides the reader with background information on the development and scope of the prejudice against the Chinese in order to understand how Anglos later transferred these negative attitudes to the Japanese. The main Caucasian argument against the Chinese, and all other groups of Asian immigrants for that matter, was economic. Anglos feared competition from Chinese, and later the Japanese, in the labor market because they both accepted lower wages than whites did for performing the same job. This drove the Chinese into occupations unwanted by Anglos, yet did not spare them from discrimination. The application of racially based laws at the local, state, and finally the federal level became the favored method for excluding Chinese from white society.

Chapter Two explains the impetus for Japanese immigration and ways that the Meiji government participated in and profited from the emigration process, as well as the methods that Japanese immigrants relied on to establish themselves in a hostile society. It illustrates how the need for labor on sugar plantations in Hawaii and on the rapidly industrializing West Coast played a key role in the initial Japanese migration to the United States, while simultaneously laying the groundwork for understanding why nativist Anglos were uneasy with the presence of Japanese in their midst.

A discussion of the overall Japanese experience in the American West between 1885 and 1913, with a special emphasis on California’s history of anti-Japanese agitation is the topic of Chapter Three. It explains why the Japanese turned to specialized agriculture for
survival and how this brought them into conflict with Anglos. Also, it details the increasing hostility of western newspapers toward the Japanese and the role that the organized labor movement in San Francisco played in the development of anti-Japanese agitation and legislation in that state. This analysis sets the stage for the final chapter, which focuses on the Japanese question in Nevada. Using the available fragmentary primary source material, it chronicles how an incident that occurred at Fallon, Nevada in 1921, created a local “Japanese scare” and resulted in the amendment of the state’s constitution to prohibit foreigners from owning real property. An investigation of the background of this amendment reveals that by 1924, the Nevada Legislature was well on the way to implementing an ineligible alien land law when, for reasons not fully understood, it abandoned the process.

The Epilogue suggests that the Immigration Act of 1924 with its national quota system was a victory for the nativist movement. This law also laid the groundwork for the modern Immigration and Naturalization Service and the Border Patrol and thus contributed to the rise of the modern administrative state. In addition, this section briefly considers the alien land laws as a prelude to the Japanese internment during the Second World War.
CHAPTER ONE

THE CHINESE EXPERIENCE IN AMERICA AS A PRELUDE TO THE “YELLOW PERIL,” 1850-1882

On the Caucasian element only can we hope to build up such an empire as the world has never seen…. Chinese may be all very good, but Europeans are at least ten times better.

— James Gordon Bennett, Jr., New York Herald, August 3, 1869.

They are a harmless race when white men either let them alone or treat them no worse than dogs.

— Mark Twain, Roughing It, 1872.

The Anglo-Asian relationships of the late nineteenth and early twentieth centuries in the American West were extremely complex. On one hand, Anglo capitalists needed a steady supply of cheap Asian workers to fill the existing labor shortage. On the other, white labor groups viewed Asians as an economic threat. Politicians seeking the workingman’s vote passed discriminatory legislation aimed at the Chinese and the courts were often ambiguous in treatment of Chinese cases. During the late 1880s, into these social, political, and legal contexts large scale Japanese immigration to the United States began. Thus, in order to understand more precisely the antagonistic Anglo-Japanese relationship of the early twentieth century, we must first examine the equally adverse Anglo-Chinese relationship during the last half of the nineteenth century.
Chinese immigration to the United States began around 1850 in response to poor economic conditions in China and the California gold rush. The overwhelming majority of these immigrants were young unskilled male laborers who hoped to find their fortune in America so that they could return to a better life in China. With this dream and little else, they arrived at the port of San Francisco. The reception that the Chinese received was undoubtedly not what they expected. Anglo miners drove them from the gold fields and they had to find work in menial sectors of the economy where they did not compete with whites. Yet they worked hard and accepted dangerous jobs for low pay, because to them, these reduced wages were still better than those available in China. This enraged white workingmen who saw the Chinese as an economic threat. Because the majority of Chinese did not seek citizenship, they were ineligible to vote and were at the mercy of an Anglo society that manipulated the laws for its own benefit. Often denied property rights, civil rights, unfairly taxed, and discriminated against in the courts the average Chinese immigrant was unable to advance higher than the lowest rung of American society. As the Chinese spread across the western frontier in search of better opportunities, they found that prejudice and racism preceded them. More than thirty years after their arrival in America, the United States government determined that the Chinese were unfit for entry into American society and implemented the first of a series of racist exclusionary immigration laws to keep them out.10

The first contingent of forty Japanese immigrants landed upon American shores in 1869, unfortunately, by the time of their arrival, strong anti-Asian prejudices already existed among many segments of the Anglo population of the western United States. These sentiments arose in part from the earlier advent of Chinese immigration, which provided the majority of whites in the West with their first experiences with Asians.

Chinese Immigration to America, 1847-1882

Stanford M. Lyman argues that after 1847, Chinese immigration to America’s West coast began in earnest. At the same time, he explains that these immigrants were not the first Chinese to come to the United States. As early as 1785, a small number of Chinese seamen involved in the China trade lived in various New England port cities and between 1818 and 1827 five young Chinese males attended a school for foreign students at Cornwall, Connecticut, which also included Cherokee Indians. These students may indeed have represented the earliest attempt to acculturate Chinese to the values of white Anglo-Saxon Protestant society on American soil. The school boasted of its ability to


educate "Heathen youth,...to communicate to the Heathen Nations such knowledge in agriculture and the arts as may prove the means of promoting Christianity and civilization."\(^\text{14}\) Lyman notes that, despite the haughty claims of the Cornwall school, the project to westernize these Chinese students failed after the men severed all contact with the school after graduation.\(^\text{15}\) In any event, prior to 1850, the total number of Chinese residing within the United States was small, although their exact number remains uncertain.\(^\text{16}\) This situation changed rapidly over the next thirty some years as several hundred thousand Chinese immigrated to America seeking economic opportunities (Table 1).

Scholars agree that it was not the desire of most Chinese emigrants to resettle in America. Lyman describes the Chinese as sojourners who only intended to stay in the United States for as long as it took them to earn enough money to return home and live comfortably. He argues that for the Chinese immigrant, their family living in China


\(^{15}\) Ibid.

remained the most important aspect of the journey to America. The immigrant endured every hardship and accepted any reward in the hope that it would ultimately benefit his family when he returned to China. In a sense, the passage to the United States was simply an investment in the future of the family left behind in China. Liping Zhu concurs with Lyman's observations, and estimates that at least half of all Chinese immigrants were married and had families in China that they intended to support from their earnings in the New World.

According to many historians, the gold rush was the main impetus that brought the Chinese to America. On January 24, 1848, the discovery of gold at Sutter's Mill on the American River in what was then the military district of California created a sensation. Within months, thanks primarily to the transportation revolution created by ocean going steamships, rumors of the riches found in California's goldfields rippled across the world. Indeed, Zhu argues that news of the gold strikes reached the city of Canton, China by that October, the same month that the story broke on America's eastern seaboard. In the minds of some Chinese, this news helped to substantiate Chinese scholar Wei Yuan's

20 Zhu, Chinaman's Chance, 15.
somewhat fanciful 1841 description of California in the multi-volume *Hai Guo Tu Zhi*, as a natural paradise and "a land of abundance," and helped influence some Chinese to immigrate to the United States.\(^1\) Yet, it seems more probable that the poor economic situation and overpopulation of China during the late 1840s forced people to emigrate.\(^2\) In any case, developments in oceanic transportation, such as the steam ship, aided Chinese immigrants in their journey to the United States.

American shipping companies quickly recognized the enormous profit potential of providing passenger service between Hong Kong and San Francisco. Ship captains and their agents distributed embellished leaflets and maps to the Chinese that played upon their misconception of California as a land of plenty.\(^3\) According to Gunther P. Barth, these tactics were quite successful, by 1852, the fare between Hong Kong and San Francisco was approximately forty dollars, while a ticket from San Francisco to Hong Kong was half that amount. He also estimates that during that same year, some thirty thousand Chinese paid American shipping companies around $1,300,000 for their passage to the United States.\(^4\) The expense of the voyage from China to America forced many immigrants, the majority of whom were unskilled laborers, to borrow money for the trip.

Three options for financing the cost of immigration were available to them; the first,

\(^{1}\) Ibid., 16-17.

\(^{2}\) Ibid., 17; Lyman, *Chinatown*, 45-47.

\(^{3}\) Tsai, *China and the Overseas*, 13.

was simply to pay for the passage out of pocket. Merchants and others who had ready access to cash used this method, but most individuals could not afford this. Second, was the possibility of acquiring an interest-free loan from family or friends. Yet, this still required resources beyond the means of the average family in mid-nineteenth-century China. The third, and most common way for a prospective immigrant to acquire the necessary money for the trip was to borrow it from a broker involved in the credit-ticket system.

The credit-ticket system was a form of indentured servitude that allowed an individual to borrow a specific amount of cash in China and promise to repay the loan plus interest from his future earnings in the United States. Lyman states that the interest rates on these loans were “usurious.” He bases this conclusion on the contents of an 1852 letter written by Chinese merchants in San Francisco to California Governor John Bigler in an attempt to explain the credit-ticket system, which stated, “The usual apportionment of the profits is about three tenths to the lender of the money, and rarely, if ever, any more.” The interest rates could run even higher than the 30 percent that Lyman reported. Barth cites a British official in China in the 1850s, Harry Parkes, who claimed that Chinese would borrow seventy dollars and promise to repay two hundred dollars in return. The credit-ticket system, or some variation of it, operated until at least 1882, when Congress

Lyman, Chinatown, 164.

Ibid.; Tsai, China and the Overseas, 15-16; Daniels, Asian America, 14-15.

Lyman, Chinatown, 164.

Ibid., 164-165.

Barth, Bitter Strength, 68.
prohibited Chinese immigration. It worked for two reasons. First, a complex system of social, clan, and family relationships and obligations existed that were unique to Chinese society and they served to assure that money borrowed under the credit-ticket system was repaid. Second, a great demand existed in the American West for Chinese labor and jobs, even if they were poor ones, were easy to find.

Chinese Employment in the American West and the Anglo Response

The California gold strikes created an immediate economic problem for the territory in the form of a labor shortage, as many Anglo residents abandoned their jobs, homes, and fields in the quest for riches. The location of California further exasperated this problem since it was isolated from the pool of eastern labor, which in turn, created a fluid job market that allowed workers to seek other employment at will. These factors undoubtedly aided the early Chinese immigrants in finding work since the demand for workers was so great.

Presumably, most Chinese who arrived in the United States during the initial period of the gold rush expected to work in the gold fields, and indeed many of them found jobs in the mining camps of California. Zhu states that in the 1850s, as soon as the Chinese disembarked, they headed for gold-mining districts in the foothills of the Sierra Nevada.

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30 Lyman, Chinatown, 170; Daniels, Asian America, 15.

For a detailed analysis of the power structures and social relationships that existed amongst many Chinese immigrants, see Lyman, Chinatown, 161-91.

31 Zhu, Chinaman’s Chance, 14.

Mountains along well-established land and river routes. Here they worked as laborers in placer mining operations that removed surface gold from riverbeds. A few were lucky enough to stake their own claims or take over abandoned ones.\textsuperscript{34} The exact number of Chinese engaged in mining during the early days of California’s gold rush is unknown; estimates put the figure at 20,000 in 1855, and possibly 26,000 by 1860, which was 75 percent of the Chinese population in California.\textsuperscript{35} The work in the mining districts brought the Chinese into contact with large numbers of Anglos for the first time and resulted in local racial tensions that worsened over time. Undoubtedly, Anglo ignorance of Chinese customs and culture and a general intolerance of foreigners, especially toward those who were easily recognizable as non-white, played a role in this. Yet, the key element to understanding the development of the Anglo-Chinese relationship, or in a larger context, the Anglo-Asian relationship, during the late nineteenth and early twentieth centuries in the United States was economic in nature. Simply put, whites feared the Chinese as economic rivals.

Since most of the Chinese immigrants lacked skills, they worked as common laborers, which put them in direct competition for employment with unskilled whites. In fact, they held two advantages over whites because they usually accepted lower wages and were willing to engage in occupations that white men would not. In the 1850s, an Anglo could expect to earn an average of three dollars per day in California’s gold fields, while a


\textsuperscript{35} Ibid., 26.
Chinese would accept $1.25-$2.50 a day for the same job. This lower pay scale does not imply that the Chinese worked less than whites did. Daniels argues that they were “quick and adept learners...dependable and not prone to strike,” traits that should have made them attractive employees. Unfortunately, Anglo miners viewed matters differently.

In California’s mining districts, which operated as precursors of municipal governments, local ordinances passed by the white majority excluded Chinese, Hispanic, and occasionally Frenchmen from work in mining operations. This tactic seems to have had only limited success since mining still accounted for one-fifth of Chinese occupations in California according to the 1880 census. Yet, it did force many members of these groups to accept other jobs in the camps where whites tolerated them. A common practice of the Chinese was to become cooks or laundrymen in the camps since both of these occupations were niches that white males refused to fill.

Perhaps, the best example of this is the use of Chinese labor to build the western portion of the transcontinental railroad. Between 1865 and 1869, the Central Pacific Railroad hired more than 10,000 Chinese to build its section of the road. Their wages were two-thirds that of whites and they had to supply their own food and shelter, which

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37 Daniels, Asian America, 19.

38 Saxton, Indispensable Enemy, 52.

39 Daniels, Asian America, 19.

40 Saxton, Indispensable Enemy, 52-53.
saved the company over five million dollars. The work was extremely dangerous and injury or death was common, thus forcing the railroad to import more laborers from China to make up the losses in order to complete the project ahead of schedule. Upon completion of the road, the company fired most of the Chinese crews. The Southern Pacific Railroad also utilized Chinese labor into the 1880s as it pushed toward the Gulf of Mexico, undoubtedly the pay scale and working conditions for the Chinese were much the same as they had been under the Central Pacific.\(^{41}\)

Another option open to this marginalized group was to relocate to major metropolitan centers in the search for employment. For instance, throughout the 1860s and into the 1870s, Chinese labor was common in areas of light manufacturing such as cigar rolling, sewing, and gunpowder manufacture in the cities of the West Coast. Of course, whites again mounted campaigns to drive the Chinese from these occupations as evidenced by the creation of the People’s Protective League in San Francisco during 1859, which was a Caucasian cigar-makers union that sponsored boycotts of Chinese made cigars. Other examples include the prohibitions against Chinese membership in the Knights of Labor, and later, the American Federation of Labor (AFL); despite their rhetoric for racial equality among the working class and the inclusion of African-Americans into their ranks, the leadership of both organizations remained virulently anti-Asian.\(^{42}\) According to Alexander Saxton, during Samuel Gompers’ presidential address to the AFL’s annual convention in 1893, he accused the Chinese of degrading the Anglo population of the West Coast because they contributed “nothing but filth, vice and disease [sic];” and he

\(^{41}\) Ibid., 62-66.

\(^{42}\) Lyman, Chinatown, 87; Saxton, Indispensable Enemy, 40.
argued against any attempts at assimilation since “all efforts to elevate them to a higher standard of living have proven futile.” Interestingly, Gompers’ claim that Chinese were unassimilatable was not the first cry of organized labor against America’s policy of unrestricted immigration. The previous year, the Knights of Labor, under the direction of Terrance Powderley, called for the expulsion of all immigrants who arrived in the country without the necessary funds to support themselves for a year.

The final option for Chinese was to move inland in search of work. The discovery of gold and silver in other western states and territories during the late 1850s and early 1860s, no doubt promised the hope of economic success to the Chinese, however, the anti-Chinese sentiments developed in California’s gold fields by the Anglo population preceded them and they usually faced the same strictures on employment that they had in California. Again, many Chinese turned to occupations in which they did not have to compete against Caucasians, such as working in noodle parlors, tailor shops, laundries, boarding houses, or as domestic servants. White opposition to the Chinese was not limited to the working classes, local politicians noticed this discontent and rapidly endorsed Caucasian laborers’ efforts to exclude the Chinese.

43 Saxton, Indispensable Enemy, 271.


45 Ibid., 89; Saxton, Indispensable Enemy, 57; Zhu, Chinaman’s Chance, 46-47.

46 Lyman, Chinatown, 89.
Anglo Efforts to Exclude the Chinese

Nineteenth-century politicians were quick to back any scheme that promised to gain them votes in future elections; especially if the cause they supported was unlikely to hurt them. From the 1850s through the 1920s, anti-Asian legislation was the ideal platform for political advancement in many Western states because opposition to it was minimal since foreign-born Asians were ineligible for citizenship under American law and could not vote.\(^*\) According to Jan C. Ting, with few exceptions, until 1943, whiteness was the pre-requisite for citizenship in the United States under the provisions of a 1790 naturalization law.\(^*\)

The framers of the Constitution did not attempt to address naturalization matters; instead, they left this question up to Congress by simply requiring the establishment of a "uniform rule of naturalization."\(^*\) It is not surprising then that the first Congress limited full citizenship to white males, since the slave states would have undoubtedly opposed any plan that gave citizenship to blacks or ex-slaves. Indeed, David P. Currie argues that Congress did this "in order to prevent a state with lenient naturalization requirements


\(^{49}\) U.S. Constitution, art. 1, sec. 8.
from foisting off undesirables on other states.”

Congress in turn relegated the naturalization issue to the judiciary making the courts responsible for bestowing citizenship on a case-by-case basis. Under these circumstances, prior to 1878, perhaps as many as several hundred Chinese and other Asians managed to acquire citizenship from sympathetic judges in various jurisdictions.

This practice ended after the Circuit Court of California heard the case of In re Ah Yup (1878). Ah Yup, a Chinese national, applied to the courts for United States citizenship. Judge Sawyer denied this request because Yup was “of the Mongolian race,” and therefore neither of white nor of African descent; the only two racial categories eligible for citizenship according to his interpretation of the Thirteenth and Fourteenth Amendments, and the naturalization laws of the period. This ruling did not alter the status of those Asians who were already American citizens; it only prohibited Asians from making future applications for citizenship. Nor did it prevent persons of Chinese descent from becoming citizens of the United States if they were born in the country.

The Fourteenth Amendment states that, “All persons born or naturalized in the United


Ibid., 824.


In re Ah Yup, 1 F Cas. 223, 5 Sawyer 155 (1878).

Ibid., 223-224.
States, and subject to the jurisdiction thereof, are citizens of the United States and the state wherein they reside.”55 Thus, any child born in America automatically receives United States citizenship regardless of the parents’ nationality. The Supreme Court made this clear in United States v. Wong Kim Ark (1898) when Justice Grey determined that “The Amendment...includes the children born, within the territory of the United States...of whatever race or color,” despite the fact that “Chinese persons born in China cannot be naturalized, like other aliens, by proceedings under the naturalization laws.”56 Native Americans were the exception to this doctrine however, since they did not receive birthright citizenship until Congress passed the 1924 Indian Citizenship Act.57

Chinese immigrants also faced numerous state and federal laws designed to regulate

55 U.S. Constitution, amend. 24, sec. 1.


57 With few exceptions, prior to 1924, Native Americans were not legally citizens of the United States. The Supreme Court determined in The Cherokee Nation v. The State of Georgia, 30 U.S. 1, 33 (1831), that Indians were neither American citizens nor foreign nationals under the law. Instead, Indian tribes were “domestic dependent nations...their relationship to the United States resembles that of a ward to his guardian.” Again, when the Court considered the question of citizenship in the infamous case of Dred Scot, Plaintiff in Error, v. John F. A. Stanford, 60 U.S. 393, 404 (1857), Chief Justice Taney determined that Indian were not citizens of the United States. He believed that Indians were “like the subjects of any foreign government...[and could] be naturalized by the authority of Congress, and become citizens of a State, and the United States.” Ironically, not even the wording of the first sentence of Article 1 of the Fourteenth Amendment, “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside,” was enough to convince the Court that Native Americans were in fact American citizens. In Elk v. Wilkins, 112 U.S. 94, 102 (1884), the Court ruled that “Indians born within the territorial limits of the United States, members of...one of the Indian tribes...although in a geographical sense born in the United States, are no more “born in the United States and subject to the jurisdiction thereof,” within the meaning of the first section of the Fourteenth Amendment, than the children of subjects of any foreign government born within the domain of that government.”
or exclude them from white society. For example, in 1849 the California Legislature introduced legislation similar to southern slave codes that defined what constituted people as black or Indian under the law. This law also prohibited blacks and Indians from testifying against whites in court. In 1854, the state’s Supreme Court decided in People v. Hall that a Chinese held the same status as an Indian in the eyes of the law and could not testify against a white man in court. Ironically, the exclusion of Chinese testimony continued under California’s judicial system until 1872, despite the passage of the Thirteenth Amendment and the Civil Rights Act of 1866 that allowed everyone, except for untaxed Indians, full access to the courts. The only change that occurred was in 1869, when the state supreme court prohibited Chinese testimony against blacks in People v. Washington. According to Grant, the court’s rationale for the verdict in this case was an attempt to establish racial equality between blacks and whites under existing laws; simply put, “since a Chinese cannot testify against a white person, and the Thirteenth Amendment as implemented by the Civil Rights Act put Negroes on a plane of equality with whites, Q.E.D. [sic] a Chinese cannot testify against a Negro.”

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59 People v. Hall, 4 Cal. 399 (1854).

60 Grant, “Testimonial Exclusion,” 89-91.


62 Grant, “Testimonial Exclusion,” 90.
establish equality between blacks and whites since it made Chinese inferior to both
groups in the eyes of the law. Discriminatory legislation in the West was not limited to
striping Chinese of their civil rights, individual states also found economic incentives to
differentiate between whites and Chinese.

Between 1850 and 1870, the California Legislature passed a series of taxes on
“foreign miners” that targeted Hispanics and Chinese miners, although not foreign
whites. The purpose of these laws was not only to drive Chinese from the mining
industry, but out of the state altogether.®® Idaho Territory also adopted a tax on foreign
miners in 1864, by requiring all foreigners to obtain a monthly license in order to hold a
claim.® * In addition, this law specified that “all Mongolians whether male or female, and
of what ever occupation, shall be considered foreigners, and shall pay a license tax of
four dollars for each and every month they reside in this territory.”® ® It is interesting to
note that not all states adopted these discriminatory taxation laws. For instance, in 1868,
Oregon’s Governor, George L. Woods, vetoed a proposed head tax on Chinese
immigrants, apparently without damage to his political career.®® Of course, other states
and territories took more direct approaches to discouraging Chinese settlement.

For instance, in 1859, the Gold Hill mining district in the Nevada Territory passed a

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®® Lyman, “Strangers in the Cities,” 43.

® * Idaho Legislature, An Act to Provide for the Taxing of Foreign Miners, Laws of the Territory of Idaho (Boise City, 1866), 406-09.

® ® Ibid., 407.

® ® Zhu, Chinaman’s Chance, 135.
law barring Chinese ownership of mining claims within the district. Six years later, Gold Hill segregated its Chinese residents under an ordinance prohibiting them from living within four hundred feet of a household owned by a Caucasian. After 1875, the local laws of Virginia City, Nevada allowed its white citizens to petition for the removal of Chinese residents in certain areas of the city if local officials declared the Chinese residence a public nuisance. California rewrote its constitution in 1879 to include strong anti-Chinese language that prevented Chinese from voting in local elections, forbade their employment on public works, and allowed communities to expel them or force them into ghettos away from the white population. The Montana Territorial Supreme Court prohibited Chinese from owning mining claims in *Tibbits v. Ah Tong* (1883), arguing that the common law rules of property ownership did not apply to mineral claims on public lands because Congress stipulated that such lands were available for mineral exploration or purchase only to citizens or others who could become citizens. According to Lyman, in 1885, unemployed white and Native American miners armed with dynamite attacked a group of Chinese miners in Alaska. Following


70 *Tibbits v. Ah Tong*, 4 Mont. 536, 2 P. 759 (1883).
this incident, the Chinese miners “were incarcerated and expelled form the Territory.”

His terminology leads one to suspect these actions were state-sanctioned events since mob violence against Chinese was common in the American West.

Lucy E. Sayler explains, the Chinese were not defenseless in the face of this blatant discrimination. Whenever possible, they challenged these restrictions in federal courts. A tactic that often resulted in judges overturning the most discriminatory of these laws because they were unconstitutional under the Fourteenth Amendment’s equal protection clause or violated sections of the Burlingame Treaty. Indeed, by examining census data, it is apparent that few, if any, of these racially motivated laws produced the desired effect of excluding the Chinese from a wide area of the United States since their overall population in America increased from 63,199 in 1870 to 107,475 by 1890. Still, the scope of the anti-Chinese agitation in the West did not go unnoticed in Washington, D.C., and the federal government soon decided to weigh in on the issue of Chinese immigration.

The passage of the Page Act in 1875, designed to exclude immigrant prostitutes and

71 Lyman, “Strangers in the Cities,” 45.


“coolie labor,” was the first time that the government intervened to restrict immigration. Sucheng Chan argues that a commonly held misconception among many Anglo policy makers of the nineteenth century was that all Chinese women in America were prostitutes. It was true that during the last half of the 1800s a high percentage of Chinese females in the United States were involved in prostitution, yet this was primarily due to the disproportionate ratio of men to women in the West. Since most Chinese males were sojourners they either were bachelors or had families China and there was a constant demand for Chinese prostitutes. Daniels explains that immigrants of all nationalities have traditionally sought entertainment “within the ethnic community.” This may have been even truer for the Chinese since whites ostracized them to such a degree that it seems likely that they would find difficulty in securing the services of Anglo prostitutes on a regular basis. Lyman argues that procuring Chinese women provided great financial rewards for brothel owners and others involved in the trade. Furthermore, he indicates that many of these women agreed to become prostitutes before reaching America, as the existence of a prostitute contract indicates (Appendix 1).

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77 Daniels, Asian America, 16.

78 Ibid., 22.

79 Lyman, Chinatown, 189.
In 1879, Congress narrowly failed to restrict further immigration when it introduced the Fifteen Passenger Bill, which attempted to limit ships entering ports in the United States to a maximum of fifteen Chinese passengers. Andrew Gyory argues that the timing of the bill fit nicely between the labor unrest and depression of the late 1870s and the upcoming 1880 presidential elections. One vote in the Electoral College determined the outcome of the presidency in the 1876 elections. California, Oregon, and Nevada were pivotal states that the Republicans barely won; hence, the issue of Chinese immigration garnered more attention than it deserved as presidential candidates from both major parties vied for the Western working-class vote. Debates, for and against immigration restrictions, were especially passionate in the Senate, yet Gyory maintains that the key issue before Congress was how to restrict Chinese immigration, “diplomacy versus legislation—rather than restriction itself.” In the end, Congress decided on the legislative route and drafted the Fifteen Passenger Bill, which President Rutherford B. Hayes vetoed, arguing that it violated Article V of the Burlingame Treaty of 1868 that allowed immigration between America and China and would hurt trade relations between the two nations (Appendix 2). Coincidentally, the Burlingame Treaty was due to expire the next year and this provided the United States with the opportunity to eliminate the provisions of Article V.

In November, 1880 a new treaty, the Angell Treaty, was adopted between China and the United States that granted American politicians the right to limit immigration as

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80 Gyory, Closing the Gate, 140-57, 167.

81 Ibid., 156.

82 Ibid., 166-67.
they deemed necessary. In fact, this provision removed the major obstacle to open immigration policy that existed under the previous Burlingame Treaty and gave exclusionists who wanted to drive the Chinese out of America the opportunity for doing so. As long as prohibitions against future Chinese immigration did not entirely ban all Chinese immigration, severe restrictions on select categories of Chinese were legal. This was exactly what the Chinese Exclusion Act of 1882 did; it banned immigration of Chinese laborers for ten years, required that certain classes of Chinese living in the United States carry permits, and forbade the naturalization of Chinese nationals. The concept of exclusion based on race would continue to develop in the United States over the next few decades.

Despite the apparent success of the anti-Chinese campaign, a serious problem remained on America's West Coast that was as old as the Chinese question itself; a shortage of labor existed. Once it became obvious that the pool of Chinese labor was not bottomless, western capitalists began searching for a new supply of cheap labor. At the time, Japan seemed to provide the answer.

The start of Chinese immigration to the United States coincided with an economic crisis in China and California's 1849 gold rush that created a huge demand for cheap labor. Hundreds of thousands of poor unskilled Chinese males left their families in China and made the voyage to America in search of temporary employment, which they hoped would enable them to return to China with enough money to allow their families to live comfortably. What they found upon their arrival was discrimination and prejudice from

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83 Ibid., 216.
84 Smith, Civic Ideals, 359.
the Anglo population who viewed them as an economic threat. Barred from the best jobs, they found work in menial areas of the economy where they did not have to compete with white labor. They faced continuous personal, economic, political, and legal pressures from an Anglo society determined to strip them of their basic civil and political rights and keep them at the bottom of the social ladder. Yet, despite these hardships, they continued to immigrate to the United States until their adopted country passed racially motivated legislation to keep them out. Soon, other nationalities of Asian immigrants would replace the Chinese as the main source cheap labor on America's West Coast, here they too would suffer under the prejudices of Anglo society.
CHAPTER TWO
THE JAPANESE DIASPORA

The Japanese will hold a much higher position in the country than that usually accorded 'John Chinaman.'... they will be a real acquisition to the State.

— San Francisco Alta California, n.d., ca. 1869.

And now come the Japanese. New plagues threaten us....are not American institutions at peril? We must smash the cockatrice in the egg, shut out these corrupting pagans, debar them from all civil and political privileges, or we are lost.

— San Francisco Gazette, May 7, 1869.

Until 1853, the shoguns of Japan sought isolation from the outside world and barred their people from emigrating. After the Meiji Revolution overthrew the old regime the new government began a series of political and economic reforms that led to the modernization of the nation. Heavy agricultural and land taxes financed these changes. These taxes hit the peasant farmers especially hard and forced many of them off their lands and into the cities where wages were low. Numerous instances of rural civil unrest occurred throughout Japan over the next several decades. During 1885, the Meiji government allowed limited emigration to Hawaii under treaty, probably in the hope of easing its civil unrest. This tactic proved successful, from the Japanese point of view, and the money that these emigrants sent home was a welcome source of foreign currency.
for its developing economy. At the same time, other countries along the Pacific Rim requested Japanese laborers to fill the gaps in their labor supply and the Meiji government privatized emigration, which made it easier for its citizens to travel abroad in search of work. Yet, Japanese leaders worried that unrestricted emigration would hurt the status of Japan in the eyes of the great western powers, as the earlier Chinese emigration had done for China, so they implemented what controls they could. Still, the cost of immigration was high and few Japanese peasants could afford passage to America. Those that could, managed to establish themselves and laid the groundwork for more extensive Japanese immigration after 1900.*®

**Events Leading to Japanese Emigration**

From 1636 to 1853, *shoguns*, a series of hereditary military governors from the Tokugawa family, dominated Japanese society. With the exception of rigid trade agreements between the Chinese and Dutch governments, they succeeded in isolating the developing nation of Japan from all outside influences. This fostered a type of feudalism similar to that of medieval Europe, consisting of a loose confederation of barons, *daimyo*, who controlled private armies of *samurai* warriors, and owed allegiance to the *shogun* that resided in modern day Tokyo. The average Japanese man of that period was of the

*® For a comprehensive discussion on the development of modern nationalism in Japan, the social and economic conditions of the country, and the rise of militarism in response to these events, see, Edwin O. Reischauer, *Japan: Past and Present* 3d ed., rev. (Tokyo, Japan: Charles E. Tuttle Company, Inc., 1964), 96-186 passim. All subsequent citations are to this edition.

peasant class and shared close ties with his extended family and immediate surroundings; travel outside the community was rare. A system of primogeniture granted the eldest son leadership of the family and tillage rights to the land. Male siblings often left the household on their own, yet remained in the vicinity, and females married into other families in nearby villages; emigration was not an option prior to 1885, and was illegal for almost all Japanese.87

This situation changed in 1868 when the Meiji Revolution occurred, which resulted from internal economic problems and pressures from the outside world and shattered the old hierarchical Tokugawa system. The new rulers of Japan imposed a strong central government in Tokyo with the Emperor as the figurehead and reduced the status of the daimyo and samurai classes to little more than that of ordinary subjects. They also began to industrialize and westernize the country in the hope that this would encourage the nations of the West to respect Japan’s sovereignty in international negotiations. To finance these changes, the Meiji government implemented a policy of heavy-handed taxation on agricultural land that hit peasant farmers the hardest. This led to a period of rural unrest and inflation in the 1870s and a severe depression in the 1880s that drove many farmers from their land and into the cities where wages were low and working conditions harsh. The new government legalized emigration in 1885, in order to lessen economic pressures within Japan, yet, this was not the first instance of Japanese emigration.88

Alan Takeo Moriyama argues that small-scale illegal Japanese emigration began in

87 Ibid.
88 Ibid., 8-11.
1868, when the Hawaiian counsel to Japan, an American named Eugene Van Reed, sent 141 Japanese men and 6 women under contract to work on sugar plantations in Hawaii. That same year, a German company sent forty-two Japanese to farm on Guam Island. The following year, Japanese laborers went to California to work on an experimental tea and silk plantation. All of these operations failed and most of these workers returned home at the expense of the Japanese government. Ultimately, these first attempts to export Japanese labor resulted in a continued ban on emigration, apparently due to possible physical abuse experienced by some of the Japanese in Hawaii. At the same time, the Japanese government was under pressure from other nations to allow emigration.

The reason for this was simple; the demand for labor along the Pacific Rim exceeded the supply. In 1876, the Australian government asked Japan to supply workers for its Northern Territory. Over the following years, governments of the Netherlands and Spain requested Japanese laborers for their Pacific colonies, Hawaiian plantation owners wanted work crews for their sugar plantations, the Canadian Pacific Railroad intended to use the Japanese to build parts of its line, and private companies in the United States sought trained mechanics for their West Coast businesses. Two additional factors made the Japanese even more attractive as a potential labor force; the first was the belief that they would accept lower wages than whites would. Second, their close proximity to work sites located in or on the Pacific Ocean provided a relatively inexpensive means of

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90 Ibid., 2-3.

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transportation as compared to the costs of importing foreign workers from Europe.

Finally, in 1885, Japan began a limited emigration program under government supervision, mainly in response to the country’s worsening economic situation.  

Yet, other scholars propose a more sinister reason for Japanese emigration. Edwin O. Reischauer argues that the Japanese leaders of the Meiji government accepted the ideology of nineteenth-century western imperialism and were quick to join in the race for colonies in order to acquire the raw materials that were necessary for the continued industrialization of Japan’s economy. Obviously, this would require an established population of Japanese in the lands intended for colonization. In fact, some evidence exists to support Reischauer’s theory. According to an 1892 article in the San Francisco Examiner, the head of the Japanese emigration bureau called for increased emigration in order to relieve overpopulation pressures. Furthermore, Masakazu Iwata bolsters this argument by stating that the Japanese people collectively believed in the concept of “Yamato minzoku no hatten or the expansion of the Japanese race,” although, at the same time, he agrees that this belief alone was unlikely to have provided the motivation necessary for an individual to emigrate. Perhaps, the desire to colonize other areas along the Pacific Rim did play a role in the Meiji government’s decision to allow emigration, yet it seems more plausible that an individual’s desire for an improved

91 Ibid., 7-10.
92 Reischauer, Japan, 134-35.
93 San Francisco Examiner, 25 May, 1892.
standard of living was the key factor in determining whether he or she would emigrate.

The First Japanese Emigrants and Hawaii

Japan’s first emigration treaty was with Hawaii. Admittedly, a discussion of Hawaiian immigration lies outside the scope of this study, yet, as Roger Daniels points out, Hawaii provided Japanese immigrants with experience in foreign lands and, more importantly, a backdoor into the continental United States. It also differed in the fact that the Meiji government tightly regulated emigration to Hawaii, whereas Japan did not supervise emigration to America as closely.95

The first Japanese emigration treaties included guarantees that Japanese immigrants would work under contract and receive adequate pay, shelter, food, interpreters, and medical care. Initially, wages were fifteen dollars a month for men and ten dollars for women.96 Spickard estimates that between 60 and 90 percent of the early Japanese immigrants to Hawaii were from the lower classes of society with agricultural backgrounds.97 This is hardly surprising, since this group would have been hardest hit by the poor economic situation in Japan at that time. With the existence of a Japanese system of primogeniture should indicate that most male emigrants were second or third


sons who had no hope of inheriting the families land, however, this was not the case.

Yasuo Wakatsuki argues that 41 percent of male emigrants were the head of family households, and 28 percent were first sons who would eventually inherit property. This suggests that the journey abroad for many Japanese was similar to that of their Chinese counterparts and started as a form of sojourning with the expectation of returning home with enough money to support an existing family. Indeed, Moriyama concurs with this assessment and expands upon it by explaining that this pattern fits into the Japanese tradition of dekasegi rōdō, or the practice of seeking temporary work away from home until it was possible to return. If this is true, then the motivation for Japanese emigration was economic and correlates with the deteriorating economic situation in Japan at the time.

Those who did immigrate to Hawaii, and later America, shared several characteristics because of the Japanese government’s tightly controlled emigration policies. Spickard estimates that only 10 to 50 percent of those who applied for emigration received official approval. In fact, because the number of applications routinely exceeded the number of passports, emigrants drew lots for those available. He also provides the following undated list of criteria for emigration eligibility to Hawaii that he argues was a “typical set of strictures” for all Japanese emigrants:

100 Spickard, Japanese Americans, 17.
101 Ibid., 16.
( 1 ) The emigrant shall meet the following conditions:
( a ) The person shall be a bona fide farmer.
( b ) The person shall abide by the terms of the agreement on emigrant labor and shall
be in a state of health to withstand farm work.
( c ) The person shall be between 25 and 30 years of age. However, when a person
under 40 years of age qualifies under Article 2, he shall be classified as a
substitute and may be accepted by the examiners after due deliberation.
( d ) The person(s) shall be a single person or a married couple with no
dependents.
( 2 ) A person who falls under any of the under-mentioned categories shall not be
eligible for recruitment:
( a ) Shizoku (person of the Samurai class), a merchant, a craftsman, a handyman,
or a farmer who at the same time engages in trading, handicrafts, or miscellaneous
services.
( b ) A person who will reach the age of conscription during the contract period and
has military service obligation.
( c ) A person who is under 20 or older that 40 years in age.
( d ) A female who is more than four months pregnant.
( e ) Any suffering from chronic or heredity diseases.
( f ) A person who is without a wife but with an infant.\(^{102}\)

As this directive implies, the majority of Japanese who immigrated to Hawaii or America
were reasonably young, healthy, and fit enough to perform a wide variety of tasks. In
fact, in 1915, H. A. Millis estimated that out of 11,585 Japanese immigrants to the United
States, 22.6 percent were under the age of twenty, 53.2 percent were under twenty five,
24.7 percent were age thirty or older, and finally that only 4.2 percent of them were over
forty years old.\(^{103}\) He added that approximately three fifths of the Japanese immigrants
that entered America between 1901 and 1909 had been either farmers or unskilled
agricultural laborers in Japan (Table 2).

Additionally, the directive suggests that the Japanese government played a part in

\(^{102}\) Ibid., 17.

\(^{103}\) H. A. Millis, The Japanese Problem in the United States: An Investigation for the
Commission on Relations with Japan Appointed by the Federal Council of the Churches
protecting the rights of its citizens abroad. Yet, according to Daniels, this theory is wrong. He argues that the interest that the Meiji government exhibited toward its emigrants’ well being “was not humanitarian” in nature.\(^{104}\)

Instead, the leaders of Japan were more concerned about the image of their nation in relationship to other western powers, and felt that if they allowed mistreatment of Japanese citizens in foreign countries, Japan would forfeit its “aspirations to great power status.”\(^{105}\) Again, this helps to explain why the Japanese government took such care in choosing its emigrants. Donald Tureo Hata explains that as early as 1888, the Japanese minister to the United States, Munemitsu Mutsu, warned the Meiji government that “undesirable Japanese [in America] will no doubt impair Japan’s national honor and dignity.”\(^{106}\) This worry was persistent. In 1891, the new Japanese consul in San Francisco, Sutemi Chinda, reported the status of the Chinese in the United States as “detested and discriminated against wherever they migrate....Their failure must be a lesson to us Japanese,” and requested that his government “prevent the departure of these undesirable Japanese to this country.”\(^{107}\)

Despite negative reports on the questionable character of some of the early Japanese immigrants in America, which Daniels dismisses because of class bias on the part of the Japanese officials, the Meiji government did not limit the number of emigrants it allowed

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\(^{104}\) Daniels, *Asian America*, 103.
\(^{105}\) Ibid., 103.
\(^{107}\) Daniels, *Asian America*, 104-105.
abroad. In fact, the government loosened its emigration policies. The initial period of government-sponsored emigration ended in 1894, replaced by private Japanese emigration companies operating under less stringent government guidelines that began to export workers under contract. Moriyama argues that the primary reason for this policy change was that the earlier emigration to Hawaii was so successful. Not only did emigration provide an economic safety valve for farmers and unskilled laborers, it also provided Japan with an important source of foreign currency.

Hawaii continued to play an important role in Japanese immigration to the United States. Soon after it became apparent that large-scale Japanese emigration to the United States would begin, the Japanese Boarding House Owners Association in Hawaii, hoping to profit as immigrant transient centers, began an advertising campaign in Hawaii to recruit workers for the American market. Some American shipping companies even worked with the association and offered low group rates to San Francisco and Seattle. This tactic was quite successful; between 1895 and 1915, over thirty-six thousand Japanese immigrated to the United States from Hawaii.

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108 Ibid., 105.


110 According to Moriyama, the amount of money that workers sent to Japan from Hawaii in 1897 equaled the nation’s export value of kelp and vegetable wax for that year. In fact, enough money flowed into certain rural Japanese prefectures that it created an improved standard of living for all residents by funding public works projects. Further more, the cash that emigrants returned home continued to play a vital role in Japan’s local economy well into the second decade of the twentieth-century. Ibid., 122-25.

111 Moriyama’s statistics indicate that prior to 1894, the United States was not the final destination for Japanese working in Hawaii. Of the roughly twenty-seven thousand Japanese living in Hawaii, 13,861 returned to Japan, 13,231 stayed in Hawaii, and only 877, or 3 percent, traveled to the mainland when their labor contracts expired. The
Japanese Immigration to the United States

When the Mejia government eased its emigration policies after 1884, Japanese could emigrate directly to the United States and by-pass Hawaii and its plantation contract labor system. Despite this, initial immigration to the American mainland was low (Table 3). Perhaps this was due to the increased cost of the voyage and the difficulties of dealing with American immigration officials. In 1897, the cost of a third class ticket to the United States was $44.50, while it was only $32.50 to Hawaii. Moreover, once immigrants arrived at American ports they had to prove that they were not indigent. This requirement usually meant that immigrants needed an additional thirty to fifty dollars upon landing. This made the cost of immigrating to America prohibitive for the typical Japanese peasant.\footnote{Spickard, \textit{Japanese Americans}, 18.}

In order to finance their journey Japanese families could borrow the necessary money at usurious interest rates. A more innovative approach, however, was to form “mutual credit associations” where as many as eight to ten families pooled their resources and borrowed the remaining amount of money needed to send one individual to the United States. This person would then send enough cash home to fund the passage of another individual from the group, and so on. This slow, yet effective, process could take a decade or more before it enabled all of the families in the association to have a member.

\footnote{Spickard, \textit{Japanese Americans}, 18.}

heaviest period of Japanese migration from Hawaii to America occurred between 1902 and 1906, and included 33,804 individuals. Moriyama, \textit{Imingaisha}, 29, 133-35.
Another possible reason for the light initial emigration may have been due to the unknown challenges that faced the immigrant in America. Yuzo Murayama argues that the positive experiences of the first Japanese overseas enticed others to follow them. Lines of communication existed between the emigrant and his home village through which money and information flowed. This made it easier for others to follow when they could, since they knew what mistakes to avoid and the type of opportunities that were available.

Finally, the immigration data for the Japanese only reports known immigrants who entered American ports. It does not deal with those who did not have passports or went to another North American country first. As early as 1890, instances of illegal immigration occurred when the privately operated Japanese immigration companies sent emigrants abroad without documentation, ships’ officers accepted money for the voyage without checking passports, or when Japanese stowed away on ships steaming to America. Another way into the United States was to acquire a passport to Canada, Mexico, or some South American country and then illegally cross the border. Yet, it is doubtful that illegal immigration contributed significantly to the overall number of Japanese that were present in the United States. Between 1909 and 1920, only 1,792 persons, or about .08 percent of the total number of Japanese immigrants to America, had

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113 Ibid.


115 Daniels, Asian America, 102; Murayama, “Information and Emigrants,” 138.
incorrect or falsified documents. Overall, it seems that the Japanese immigration to the United States was an orderly process controlled by both nations, unlike the earlier Chinese immigration (Table 4).

Once the Japanese landed in the United States, they encountered a hostile Caucasian population who viewed them as unwelcome competition in local labor markets. This forced the Japanese to seek employment in industries where they did not have to compete against whites. Many gravitated into agricultural labor in California where their success only deepened the animosity that Anglos felt toward them and initiated a wave of anti-Japanese agitation that swept across the American West, which lasted for at least half a century and resulted in the passage of numerous discriminatory state laws that attempted to prohibit Japanese from owning land.

Japanese emigration began in 1885, after more than two centuries of isolation from the rest of the world. A new government introduced new social and economic policies that devastated the traditional rural economy, forcing peasant farmers from their land into overcrowded industrial cities. The Meiji government signed an emigration treaty with Hawaii that guaranteed jobs and shelter for its citizens during the time that they spent in the islands in an attempt to alleviate some of the social discontent in Japan. This emigration policy worked beyond the wildest expectations of Japan’s leaders and they established private emigration companies to supply labor to other nations bordering the Pacific Ocean. Their only concern, however, was that emigration would create the same negative international consequences for Japan as it had for China only a few years

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earlier. Therefore, controls were in place that made it difficult, yet not impossible to emigrate. Slowly, the early Japanese emigrants chose the United States as their destination and they laid the foundations for a rapid wave of emigration to America during the early years of the twentieth century that triggered a racist response from the Anglo majority as severe as that experienced by the Chinese.
CHAPTER THREE
NATIVISM AND THE JAPANESE IN CALIFORNIA, 1895-1913

The danger of a large Japanese immigration is small....The Japanese would be as
remarkable for adopting the customs and beliefs of their civilized neighbors almost as
quickly as, and more completely, than the European immigrants.


It is the poor and needy, prostitutes and outlandishly dressed fellows...and the
increasing arrivals of lower class Japanese [who] will provide a pretext...to exclude
the Japanese from this country.

— Sutemi Chinda, Japanese Consul to San Francisco, April 25, 1891.

The early Japanese immigrants to the United States encountered a well-built
Caucasian wall of anti-Eastern Asian racism developed in response the earlier Chinese
immigration. Moreover, this prejudicial attitude did not lessen over time; instead it
worsened. The Japanese managed to find an economic niche in specialized agriculture
unfilled by either whites or Chinese. At the same time, they wanted to improve their
social position and came into conflict with Anglo farmers in California. The days of the
frontier were at an end, and with it, Western politics evolved into something approaching
the modern model. Organized labor and special interest groups learned to manipulate
politicians using inflammatory propaganda to achieve their goals. The California Legislature responded to the Japanese presence and new political climate by taking the lead in trying to drive the Japanese from the state with the introduction of an ineligible alien land law.

The Japanese found new economic opportunities in the United States that did not exist for their Chinese predecessors, yet they remained at the bottom of American society. Through hard work and ambition, primarily in the agricultural fields of California, they managed to advance beyond the level that Anglos imposed upon them and their successes brought them into competition with segments of the white majority. Starting in the 1890s, newspapers along the Pacific coast attacked the Japanese at every opportunity through sensationalized stories that helped transfer onto them the negative stereotypes assigned to the Chinese. Small Anglo farmers resented the Japanese for their accomplishments in producing specialty crops that required labor-intensive farming techniques. The most vocal group opposed to the Japanese at the start of the twentieth-century were the labor unions of San Francisco led by the Asiatic Exclusion League, which argued that the presence of Asians in the labor market drove down the standard of living for whites. California state and local politicians eagerly joined in the anti-Japanese agitation in order to curry the union vote. They proposed numerous pieces of discriminatory legislation aimed at the Japanese, although, until after 1912, never managed to pass them. The measure that they finally settled upon in 1913, was an Anti-Alien Land Law, which attempted to prohibit the future Japanese ownership of real property in the state.
Japanese Immigrant Occupations

Despite its name, the Chinese Exclusion Act of 1882 did not expel Chinese nationals from the United States. It simply prohibited the future immigration of Chinese laborers; merchants, students, teachers and travelers were exempt from its restrictions. Any common laborers who were in America ninety days before the passage of the act could stay, and leave and re-enter the country as they chose if they held the proper documents. In fact, none of the later exclusionary legislation or immigration acts directed at the Chinese ever ejected them from the country. That was not the legislators' intent. Instead, the law slowed the rate of legal Chinese immigration to a trickle, and made it harder for them to return to the country once they left. There is little doubt that these policies were effective. Official census records indicate that between 1870 and 1920, there was a sharp decline in the overall Chinese population in America (Table 5).

It is erroneous to think of the Japanese simply as replacements for Chinese laborers on the West Coast. They were not. The experiences of both groups while similar, were indeed different. The American West of the 1890s was no longer the frontier of the 1850s. The diversification of region's economy during the 1880s helped the Japanese find new niches where they could prosper. According to Iwata, many of the initial Japanese immigrants found work in unskilled positions in canneries, meatpacking plants, fishing, lumber mills, mines, salt making, railroads, or as domestic servants. With the exception of light industry, such as cigar or shoe manufacture, which the Japanese never

entered, all of the jobs available to them were the same low status ones that were available to the Chinese. In addition, like the Chinese, they received lower wages than Anglos for doing the same work. In fact, Iwata argues, that it was only due to their acceptance of lower wages that the Japanese could find employment in certain industries, such as the timber industry. This was due to the extreme anti-Asian feelings of the Anglos employed by the mills, who, on occasion, refused to allow Japanese workers to disembark from the trains that brought them into the lumber camps, or drove them out of the camps through sustained campaigns of hostility and antagonism.

Another occupation open to the Japanese was the restaurant business. A restaurant or café cost less than five hundred dollars to open and generated quick profits by selling ten- to fifteen-cent meals to white workingmen. Several Japanese could pool their money and form a partnership to finance the restaurant. These entrepreneurs would then employ other Japanese as kitchen help or cooks. The importance of restaurants to the economic success of the initial Japanese immigrants in urban settings should not be underestimated. By 1896, more than sixteen such establishments in Los Angeles, California employed the majority of the city’s population of one hundred Japanese.

Despite the fact that Anglos patronized these restaurants, they still objected to the presence of Japanese in this industry. In the summer of 1897, Mrs. Squires, the

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proprietor of the Hotel Johannesburg in Johannesburg, California, hired a Japanese cook and waiter. White residents of the community and neighboring town of Randsburg immediately demanded she fire them. Their complaint was that the Japanese represented a source of cheap labor and might open their own restaurants, which would presumably compete against those owned by Anglos. In the end, the residents of the two towns succeeded in evicting these Japanese from Johannesburg, but only after they reimbursed Mrs. Squires for her cost of transporting them into town and paid the return stagecoach fare of the two men to Los Angeles.  

Railroads were another industry where a great many Japanese found employment. During the first decade of the twentieth century, between ten and thirteen thousand Japanese worked for railroad companies across the West. Interestingly, this seems to be the only occupation where the Japanese replaced their Chinese predecessors' en masse, and was probably due more to the aging of the Chinese work force that remained in the country after the passage of the Exclusion Act than it was to the willingness of the Japanese to accept lower wages. The Japanese who worked on the railroads performed most of the menial tasks, such as track maintenance and common labor in repair depots. In addition, they often lived in segregated camps.  

The primary livelihood for most Japanese immigrants in America was in agriculture. As early as the mid-1890s, gangs of Japanese laborers worked in the fields of California. To meet the labor needs of Anglo farmers, a few enterprising Japanese followed the lead


122 Iwata, Good Soil, vol. 1, 119-25.
of the Chinese and formed agencies that recruited large groups of workers from the cities and delivered them to the fields at specific times. The early Japanese labor contractors often under-bid the Chinese and this undoubtedly contributed to the Anglo belief that the Japanese were a source of extremely cheap labor. For example, during the 1894 harvest season in Santa Clara County, California, Japanese worked for fifty cents per day, while their Chinese counterparts charged one dollar a day. In fact, the introduction of Japanese agricultural labor seems to have driven down the labor costs of farming wherever they worked.

This situation changed shortly after the turn of the century, however, as Chinese agricultural labor became less common. By 1903, without organized competition, the Japanese began increasing their prices and Anglo growers began to complain about the quality of Japanese labor. Still, by 1910, Japanese dominated the agricultural labor force in California.

**Japanese in Western Agriculture**

Even though there were Anglo complaints about the increasing cost of Japanese field labor, the landowners recognized the fact that many Japanese were skilled agriculturalists. Some of the more industrious Japanese entered into share cropping

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124 Ibid., 108.

125 Ibid., 109.

arrangements with Anglo growers and became tenant farmers. Several factors made this possible. First, California farms were large, on average two hundred acres or more. In the era before mechanization, a farm of this size was difficult for a single family to operate efficiently, especially since Californian farmers grew a wide variety of crops. Second, the crops grown in California were labor intensive. Berries, vegetables, melons, citrus, and hops were common crops. These were also perishable and had to be cultivated at specific times, unlike corn, which could remain in the field for a time after it ripened. Third, between 1870 and 1900, California increased its arable farmland by over one 150 percent with improved irrigation and reclamation techniques. Fourth, the Japanese were ambitious and desired a better their standard of living so they willingly entered into these agreements.

According to Spickard, the average size of the typical Japanese run farm was twenty acres, although, plots as small as five acres were not unusual. Through hard work, these plots produced small, consistent profits to the farmers. Unfortunately, under the share cropping arrangements up to 50 percent of the profit went to the property owner. In order to avoid this expense and maximize profits some Japanese tenants began to lease their land for cash. These arrangements proved beneficial to both the Japanese and Anglos. The Japanese paid a set amount for the use of the land for a certain number of years and kept any profits they made. Anglo landowners, on the other hand, received premium rents from the Japanese for the use of their land. In fact, leasing land to the Japanese was

127 Ibid., 39.

128 Iwata, Good Soil, vol. 1, 153-56.

129 Spickard, Japanese Americans, 39, 42.
so profitable, that in many instances, whites preferred having tenants rather than farming
the ground themselves.\footnote{Iwata, Good Soil, vol. 1, 193-194, 198.}

Interestingly, the tenant system of agriculture that developed in California usually
included small groups of Japanese farmers on each plot instead of individuals. This
assured the owner of an increased labor supply on each parcel since each tenant had a
personal interest in the crop. It also encouraged additional Japanese to enter into leases
since they could reduce their cost of renting the land by splitting it among others. Of
course, this also reduced their overall profits ( Table 6 ).\footnote{Ibid., 198.}

Relatively few Japanese ever managed to purchase land outright. A possible
explanation for this is that, true to the \textit{dekasegi} tradition, Japanese immigrants expected
to return to Japan after they saved enough money by working in America.\footnote{Ibid., 174.}
Still, it seems more likely that the primary reasons for this were that Anglos often either refused
to sell them land, out of prejudice or for economic reasons, or due to the Japanese lack of
capital. Apparently, Anglo banks of that time were reluctant to make loans to the
Japanese and Japanese banks operating in the United States would not lend money for
farming ventures.\footnote{Yuji Ichioka, “Japanese Immigrant Response to the 1920 California Alien Land
Spickard argues that because the Japanese were chronically short of capital they had to rely upon each other for financial support. He describes the formation
of \textit{tanomoshi}, or revolving credit associations, among urban Japanese, where up to

\footnote{Ib...: 193-194, 198.}
\footnote{Ibid., 198.}
\footnote{Ibid., 174.}
\footnote{Yuji Ichioka, “Japanese Immigrant Response to the 1920 California Alien Land
twenty individuals each contributed a sum of money into a pool and then bid against each other for the right to use the entire amount to capitalize a business venture. The bid indicated the amount of interest each party was willing to pay for the loan, and the highest bidder then repaid the other members in monthly installments. No evidence suggests that the tanomoshi system operated among Japanese farmers, however, it seems probable that one did.

Changing Anglo Perceptions of the Japanese

The origins of the ideas of a “Yellow Peril,” or fear of an invasion of Western territories by Asians, are unknown, however, they began somewhere in Europe, perhaps with the ancient Greeks or Romans. Like so many other Western beliefs, such as Christianity, democracy, nationalism, and racism it traveled to America. By the 1890s, the yellow peril represented any of a combination of economic, cultural, racial, and military perils that seemed to threaten the Western world, or more specifically, the dominant white Anglo-Saxon Protestant society of the United States.

The perceptions of the American public toward the Japanese in the late nineteenth-century varied, yet overall, were favorable. Anglo writers of the period usually presented the Japanese in a positive light, as least in contrast to the Chinese. This portrayal included better hygiene, an efficient military, higher education and intelligence, a budding acceptance of Christianity, and the ability to adopt western customs; all these

134 Spickard, Japanese Americans, 44-45.

things made the Japanese more worthy to Western eyes than the Chinese. In fact, some schoolbooks even referred to the Japanese as "the most progressive people of the mongolian [sic] race." Of course, these writings reflected the racial ideas of Caucasian supremacy, then in vogue, and the authors' bias toward Asians. Never the less, according to Fred H. Matthews, prior to 1890, Americans believed that Japan represented a developing market for American goods and was an exotic image of the Orient.

This view changed almost as soon as the Japanese began to land in this country in relatively large numbers. Japanese began arriving on the United States mainland as early as 1869, although the annual number of Japanese immigrants rarely exceeded several hundred until after 1888, and did not reach 1,000 per year until 1891 (Table 3). The earliest organized attempt to prohibit further Japanese immigration began in 1892 when Seattle and San Francisco newspapers launched an anti-Japanese campaign that targeted the immigration of common laborers and the amount of vice among Japanese immigrants. Ultimately, this issue fizzled out, either because of the small quantity of Japanese then living on the West Coast or because vice was so common in white society,

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that it was an accepted part of frontier life. In any event, this early anti-Japanese agitation is important to this study because it altered the Anglo view of the Japanese, at least in the West.

In the late 1880s and early 1890s, West Coast newspapers published sensationalized stories about the new Japanese immigrants that assigned them the same negative characteristics that whites mistakenly believed the Chinese held. This helped create a stereotypical image in Anglo minds of the Japanese as dirty, illiterate, lazy, and ignorant, in short, undesirable. To a limited extent the Japanese contributed to this belief since their small population in California, Oregon, and Washington included large contingents of prostitutes, pimps, gamblers, and underemployed persons who drew the attention of the local authorities. In addition, the arrival of unskilled Japanese agricultural laborers to the United States beginning around 1889, compounded the problem because now the Japanese could pose a threat to Caucasian jobs.

This unsavory image further deteriorated as Japan continued her quest for great power status. In 1874, Japan invaded Formosa to punish its people for killing some sailors. Eventually, China paid Japan reparations and recognized Japanese claims to the Ryukyu Islands. Japan then used its navy to intimidate Korea into submission in 1876, and gained concessions from the Korean King that were much like those granted to the Western nations in China. Japan defeated China during the Sino-Japanese War (1894-95) and acquired possession of Korea and other strategic islands. Now an imperial power, Japan obtained a mutual defense treaty with Britain in 1902, which allowed it to start the

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141 Daniels, Asian America, 112; Hata, “Undesirables”, 149-150.

142 Hata, “Undesirables”, 53-54, 72-78, 81, 100-06.
Russo-Japanese War two years later. Japan then astounded the world in 1905, by defeating the Russians. The signing of the Portsmouth Treaty in 1905 turned Japan into an early twentieth-century superpower. Over the next decade, Japan continued to expand its colonial empire by annexing the remainder of Korea in 1910, and seizing Germany’s Asian colonies during the First World War.

These events, especially the Russo-Japanese War, received wide press coverage in the United States. Some scholars believe that it was during the Portsmouth Peace Conference, the surrender negotiations between Japan and Russia, that American public opinion turned against Japan. Winston B. Thorson, however, argues that there was no


145 Winston B. Thorson argues that President Theodore Roosevelt brokered the Portsmouth Treaty in order to protect American possessions in the Far East from future Japanese aggression. The intention was to preserve Russia as a viable, albeit weakened, military power in the region to counter the Japanese. Winston B. Thorson, “American Public Opinion and the Portsmouth Peace Conference,” American Historical Review 53, no. 3 (Apr., 1948) : 449.

146 Reischauer, Japan, 139-41.

147 One school of thought on the change in American public opinion toward Japan at this time hinges on the belief that the Russian plenipotentiary, Count Witte, wooed reporters with his personality, see, John Holladay Latane, “Our Relations with Japan,” American Political Science Review 8, no. 4 (Nov., 1914) : 591. http://www.jstor.org/; Alfred Whitney Griswold, The Far Eastern Policy of the United States (New York: Harcourt, Brace and Co., 1928), 104. Another, is that the relationship between Japan and America did indeed change at this time, yet it was on a diplomatic and political level due to Japan’s continuing expansion policy in Asia, see, Warner and Warner, The Tide, 586.
evidence of a widespread shift in the American public’s view of Japan mentioned in any of the reports published by European governments or in the papers of American political leaders on the treaty process. In fact, he argues that the only major anti-Japanese articles that appeared during the Portsmouth Conference came from newspapers in New Orleans, San Francisco, and Los Angeles.148

During the Portsmouth Conference, on February 23, 1905, the San Francisco Chronicle began an anti-Japanese campaign lasting more than a year. The already “undesirable” Japanese immigrant now became somehow dangerous as well. According to Daniels, “irresponsible journalism” was at fault for creating this new stereotype with the use of inflammatory headlines and scare stories such as:

“The Japanese Invasion—The Problem of the Hour;”
“Japanese a Menace to American Women;”
“The Yellow Peril—How Japanese Crowd out the White Race;”
“Brown Men an Evil in the Public Schools;”
“Brown Artisans Steal Brains of Whites;”
“Crime and Poverty go Hand in Hand with Asiatic Labor.”149

Indeed, the fear of a Japanese invasion along the West Coast after the Russo-Japanese War was persistent and remained one of the major themes of anti-Japanese agitation after 1905. In 1909, W. A. Gates argued that ex-Japanese soldiers had infiltrated the country posing as immigrants, and that, “It would be easy to marshal an army of fifty thousand Japanese veterans at any point in California in forty-eight hours.”150 The next year, Gordon A. Stewart, an attorney from Reno, Nevada, traveled to Shanghai, China and

149 Daniels, Asian America, 116.
made the following unsolicited statement upon his return:

There is only one thing in the world that prevents Japan from openly declaring war on the United States at this time, and that is the financial condition of Japan. The country is busted and as soon as its exchequer is in a healthy condition the people of this country can expect to hear the boom of war guns and to see the black smoke from Japanese cruisers across the Pacific....

...In Japan the Japanese treat the Americans all right on the surface but whenever they get a chance to swing one into your ribs in an underhanded manner. As I stated before, all that prevents Japan from declaring war on the United States is her financial condition...in a short time Japan will have her debts paid and a goodly sum in the treasury. Then we will see the little brown men reaching out for the Philippines and planning an invasion of Pacific coast ports.¹⁵¹

For the most part, the cries of an imminent Japanese invasion stopped during the First World War. Yet, until the United States entered the war, the Hearst newspapers continued to warn of impending Japanese aggression against Western nations. It was also during the war that the focus of the “yellow peril” in the press shifted from a general fear of Asians to a threat from Japan.¹⁵²

The “Japanese Problem”

Four groups spearheaded organized opposition to Japanese immigration on the West Coast: the press, small farmers, labor unions, and politicians. For the most part, Western newspapers and magazines from around 1900 until 1925 dealt with Japanese in a negative way and treated them harshly. The San Francisco Chronicle, San Francisco Bulletin, and Washington Evening Star, readily accused the Japanese of the basest conduct and the working-class segments of their Caucasian audiences willingly accepted


¹⁵² Thompson, Yellow Peril, 360, 374.
these distortions at face value. In fact, this unfavorable, racist anti-Japanese sentiment was only small part of a general anti-Eastern Asian agitation the western United States that, in turn, was part of the larger nationwide nativist movement that had originated in the 1830s, and still exists to some extent today.

John Higham defines nativism as a type of internal nationalism characterized by an “intense opposition to an internal minority on the ground of its foreign (i.e., “un-American”) connections.”\footnote{John Higham, \textit{Strangers in the Land: Patterns of American Nativism, 1860-1925}, 2002 ed. (New Brunswick: Rutgers University Press, 1955), 4. All subsequent citations are to this edition.} In addition, he argues that three major themes lie at the core of nativist thought. First, a religious component that pits Protestants against Catholics, which in practice, meant Protestant against non-Protestant. The second was the fear of foreign radicals who posed a possible revolutionary threat. This idea originated in the 1790s, when European Catholic immigration to America began, with the belief that Catholics owed allegiance to the Pope rather than the nation. Finally, a racial element of nativism distinguished a difference between persons of Anglo-Saxon heritage and everyone else. In short, the nativist movement was an attempt to maintain the dominance of the Protestant Anglo-Saxon \textit{status quo} in American society in the face of new ideals and people introduced by unrestricted immigration during the nineteenth century.\footnote{\textit{Ibid.}, 5-11.}

The initial focus of nativism, at least during the early decades after its inception, was against the influence of southern and eastern European immigrants in the eastern United States.
States. Yet, the core ideology of the movement easily allowed anti-immigrant feelings to flourish against any groups that were not Anglo-Saxon. Therefore, it is not surprising that Asians were targets of nativists in the western states. For the most part, they were not Christians; the Chinese tended to practice Confucian philosophies, while the Japanese subscribed to Buddhism, Taoism, or Shinto. Both China and Japan were imperial societies theoretically ruled by an Emperor. Undoubtedly, to the nativist mind, this was equivalent to the mistaken belief that all Catholics blindly followed the Papacy. The Asian’s stature and skin color immediately differentiated them as non-Anglo and the western press labeled them “little brown men.” Thus, easily identified as different, the Japanese became scapegoats in the press for many of the social problems that existed along the West Coast during the early decades of the twentieth century, for example, low wages and a depressed economy, much like the Chinese had before them.

Throughout the late nineteenth century, American farmers, in general, experienced numerous economic difficulties, such as low farm commodity prices, discriminatory railroad transportation fees, and high mortgages. In California, labor shortages, large landholdings, and a lack of arable land added to these problems. Anglos who owned small farms, or wanted to enter agriculture, agitated for state mandated subdivision of


156 San Francisco Chronicle, February 13-March 13, 1905; Sebastopol Times (CA), n.d., ca. 1908.

large farms during the 1890s in an effort to obtain land. The presence of a large body of Japanese agricultural workers who managed to acquire farms infuriated these whites, who viewed them as an economic threat.

The main impetus for anti-Asian agitation along Pacific Coast between 1890 and 1924 arose from the Anglo, urban, blue-collar workers and labor unions. Despite the fact that Chicago’s Haymarket Square Riot of 1886 eroded popular support for the labor movement throughout much of America, organized labor remained a potent political force, far out of proportion to its membership, in the cities along the West Coast between the 1890s and 1910s, especially in California. More than many historians recognize, the Panic of 1893 severely affected the economy of the United States and cost tens of thousands of people their livelihoods across the country. It also contributed to the spread on nativism since Americans have looked for scapegoats to blame their economic problems on during periods of recession. An overall nationwide increase in prices followed on the heels of this depression, which between 1897 and 1913, elevated the cost of living by 35 percent. At the same time, wages for unorganized blue-collar workers did not increase at the same pace and they experienced a decline in their standard of living.

In response, or out of desperation, almost two million of these workers joined labor unions across the country between 1897 and 1911, resulting in the

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158 Iwata, Good Soil, vol. 1, 156.


160 John Higham provides a good example of this when he discusses the growth of the anti-Catholic American Protective Association during the Panic of 1893. Higham, Strangers, 62-63, 80-7.
largest growth of unionism in the United States to that point.\textsuperscript{161} 

The major beneficiary of this increased interest in unions was the American Federation of Labor (AFL), whose membership grew from approximately 250,000 in 1898 to almost two million by the start of World War I.\textsuperscript{162} This situation was particularly unfortunate for the Japanese living on the Pacific seaboard because of the AFL leadership’s negative stance against Asian immigration. In 1900, the Anglo dominated labor unions of San Francisco began the next wave of agitation against continued Japanese immigration when the San Francisco Labor Council, an affiliate if the AFL, held a mass meeting to support the extension of Chinese exclusionary legislation to include Japanese. Four years later, during a national conference held in the city, the AFL called on Congress to include Japanese and Koreans under the umbrella of Chinese exclusion laws.\textsuperscript{163} The following year, in 1905, the first organized anti-Japanese movement began with the formation of the Asiatic Exclusion League (AEL), an offshoot of the San Francisco building trades union.\textsuperscript{164}

The objective of the AEL was to stop Eastern Asian immigration into the United States.\textsuperscript{165} In order to gain support of the widest possible audience, its leaders, Olaf A.

\begin{footnotes}
\item[162] Pusateri, American Business, 253.
\item[164] Daniels, Asian America, 118.
\item[165] Apparently, to the members of the Asiatic Exclusion League the terms Oriental, (i.e., East Asians), and Asian meant the same thing, even though they encompass different geographic regions. The AEL was equally committed to the exclusion of
\end{footnotes}
Tveitmoe, an ex-convict and Secretary of the San Francisco Building Trades Council, E. B. Carr, and A. E. Yoell, encouraged participation from “all central labor bodies, mercantile associations, clubs, and other civic bodies.” This tactic successfully unified the organized Anglo working class of San Francisco and other unionized workers across the state of California against the Japanese, as evidenced by the fact that local and state union leaders were consistently included among the membership of the AEL’s Executive Council. Even though the AEL was an urban movement, in a sense, it illustrated the fact that a cornerstone of Populist thought, the fear of a rapidly changing society, survived well into the twentieth-century since the organization represented an attempt to counter foreign influences, Japan and Japanese immigrants, and what it perceived as internal problems, American immigration policies and wage labor for big business, in order to return to a simpler time.

At one point, the AEL claimed the support of over 1.1 million people across the United States, undoubtedly this was an exaggeration. Still, between 1908 and 1911, it

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167 For a list of prominent members of the Executive Council of the Asiatic Exclusion League over the years of its existence, see, Penrose, California Nativism, 15-17.

managed to establish itself in Washington, Oregon, Nevada, Idaho, Colorado, Montana, Nebraska, and the Canadian providence of British Columbia. Yet, it seems that the organization’s branches outside of California were small-localized affairs that did not contribute significantly to the AEL’s campaign of anti-Japanese agitation except to demonstrate an increased membership in other areas of the West.

The Asiatic Exclusion League used three methods to disseminate its anti-Asian message to America. First, it attempted to sway all the Western states to approve its exclusionary rhetoric so that they could lobby Congress as a unified block for the passage of anti-Asian legislation. Second, members of the League volunteered their time to travel to surrounding communities and states to lecture on the evils of the “Yellow Peril.” Finally, the AEL printed an immense amount of anti-Asian propaganda through its ties to the major San Francisco union journals and sent this material to other labor unions and civic groups around the country, including those in Nevada.

Exactly how influential the Asiatic Exclusion League was in stoking anti-Asian sentiment across the nation remains unclear. Eldon R. Penrose argues that, overall, the AEL was ineffective since it never gained the political support in California needed to pass the exclusionary legislation it wanted. In addition, he notes that the organization collapsed in 1913, after the imprisonment of its leader, Olaf Tveitmoe, for his role in the

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169 Ibid., 20-23.


171 Penrose, California Nativism, 17-19.
bombings at the Los Angeles Times three years earlier. While both arguments are correct, it still seems that the AEL was more successful in spreading its message than historians have previously recognized.

Clearly, the AEL’s exclusionary propaganda spread far beyond the realm of San Francisco. Evidence for this lies in the vast amount of printed material that the organization churned out. In the eight years of its existence, the number of leaflets, pamphlets, letters, petitions, and press releases that the league sent to politicians, individuals, organizations, magazines, and newspapers throughout the nation may have exceeded half a million copies. This continuous barrage of misinformation surely must have made the question of Japanese immigration seem more important than it really was. Unfortunately, no direct evidence exists to support this conclusion; however, when one

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172 Ibid., 34-9.

173 Historians tend to downplay the role that the Asiatic Exclusion League had in spreading anti-Asian agitation in the western United States and view it as a localized movement that was unique to San Francisco. For example, Daniels labels the AEL as a “paper organizational offshoot of San Francisco building trade unions” and argues that its importance was simply as the first of many “anti-Japanese pressure group[s].” Daniels, Asian America, 118-119. Higham simply lumps the AEL together with other anti-Japanese organizations that were active on the West Coast in the first decades of the twentieth century. Higham, Strangers, 166. Spickard identifies the AEL as a group of local “thugs” who resorted to picketing Asian establishments and random beatings of Japanese. Spickard, Japanese Americans, 28. Alexander Saxton, on the other hand, acknowledges that the AEL was the “main organizational vehicle for anti-Japanese agitation,” but argues that it was more important in strengthening the union movement in California by serving as its “unifying center.” Alexander Saxton, The Indispensable Enemy: Labor and the Anti-Chinese Movement in California, rev. ed. (Berkeley: University of California Press, 1995), 252, 262.

examines the Nevada Legislature's efforts to enact an ineligible alien land law, it
becomes obvious that outside influences, such as anti-Japanese propaganda, contributed
significantly to the campaign.

The final group to endorse anti-Japanese sentiments were state and local politicians.
The Japanese exclusionary movement, like the earlier Chinese one, was easy for
politicians to endorse since the Japanese were ineligible for citizenship and therefore
unable to vote. In addition, at the turn of the twentieth century, racially motivated
exclusionary immigration legislation at the national level appeared to work and it
provided a solution to the demands of exclusionists to stop unrestricted immigration.

The 1882 Chinese Exclusion Act banned the immigration of Chinese laborers and
forced restrictions on the ones who were already in the country. Congress renewed
Chinese exclusion under the Geary Act of 1892, which also required all Chinese living in
America to possess certificates of residence or face a deportation hearing. In addition,
any Chinese who did not present a certificate to a judge had to prove to the court that he
was legally entitled to be in the country through the testimony of one Caucasian witness.
Failure to apply for the certificate alone could result in a one-year prison sentence at hard

American courts determined in the 1878 case of In re Ah Yup that Chinese
nationals did not meet criteria for being "white persons" under current immigration laws
and were thus ineligible for United States citizenship because they were of the Mongolian
race. Later, the courts applied the same logic to cases involving Japanese citizens who
sought naturalization. A Massachusetts court denied citizenship to a Japanese male in, In
re Saito, 62 F. 126 (Mass. 1894), because he was not Caucasian. Again, in The Matter
of the Application of Takaji Yamashita for Admission to the Bar, 30 Wash. 234, 70 P.
482 (Wash. 1902), the court rejected Yamashita's request for admission to the bar in
Washington state because he was a native of Japan and therefore ineligible for
naturalization under the law. The Supreme Court concurred, in Takao Ozawa v. United
States, 260 U.S. 178 (1922), that citizens of Japan could not become naturalized
citizens since they belonged to "a race which is not Caucasian."
labor followed by deportation. The Supreme Court upheld the constitutionality of the Geary Act regardless of the fact that the act may have violated the Fourth, Fifth, Sixth, and Eighth Amendment rights of Chinese resident aliens.\footnote{Salyer, \textit{Laws Harsh as Tigers}, 46, 48.} In \textit{Fong Yue Ting v. United States} (1893), the Court ruled that, Congress had the right to expel or exclude any class of aliens that it saw fit, and could subject those aliens to any system of registration and identification.\footnote{\textit{Fong Yue Ting v. United States}, 149 U.S. 698, 714 (1893).}

In 1898, Congress passed a joint resolution that ended additional Chinese immigration to Hawaii and barred the Chinese already living there from entering the United States mainland. They went a step further in 1900, and required all Chinese laborers on the islands to register or suffer deportation. When the Geary Act expired in 1902, Congress again excluded Chinese laborers from immigrating and this time demanded the registration in all American territories of that class of Chinese, which included those residing in the Philippines. In 1904, the Gresham-Yang Treaty between the United States and China elapsed and Congress quickly made the exclusion of Chinese laborers permanent.\footnote{Salyer, \textit{Laws Harsh as Tigers}, 103, 105-106, 111, 163.}

\textbf{California and the Alien Land Laws}

No doubt, the firm stance that Congress took against Chinese immigration in 1904 overjoyed Californian and other western exclusionists who supported the anti-Asian cause. Yet, halting the influx of Chinese laborers did nothing to eliminate the continued
immigration of Japanese. Furthermore, Congress and the president were not interested in restricting Japanese immigration at that point, either out of respect for Japan’s status as a raising power in the Pacific, or because the Japanese question was only a localized issue on the West Coast. In fact, President Roosevelt warned against further anti-Asian agitation in his 1905 State of the Union address when he defined the government’s distinction between Chinese and Japanese immigrants. He stated that, “The entire Chinese coolie class...[were] undesirable immigrants...because of their numbers, the low wages for which they work, and their low standard of living.” Still, Roosevelt argued that “It is unwise to depart from the old American tradition and to discriminate for or against any man who desires to come here as a citizen, save on the ground of that man’s fitness for citizenship.... We cannot afford to consider whether he is Catholic or Protestant, Jew or Gentile; whether he is Englishman or Irishman, Frenchman or German, Japanese, Italian, Scandinavian, Slav or Magyar.”

Regardless of this warning from Washington, D.C., and the general pro-Japanese attitude of the public in other parts of the country, the city government of San Francisco, controlled by the Union Labor Party that was composed of the same trade unions that established the Asiatic Exclusion League, segregated the city’s school system in late 1906, and ordered all Japanese students to attend the only Chinese school in the city.

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179 Daniels, Asian America, 121.

180 Ibid.

Even though his action was legal under the “separate but equal” provisions of *Plessy v. Ferguson* (1896), it initiated an international incident.\(^{182}\) Japan, ever fearful of embarrassment and discrimination in international diplomatic circles, demanded an apology. This forced President Roosevelt to intervene in California’s state and local politics and ultimately led to the unpublished 1907 “Gentlemen’s Agreement” between the two countries that restricted the immigration of male laborers to the United States.\(^{183}\)

Unfortunately, the Gentlemen’s Agreement failed to stifle anti-Japanese sentiment on the West Coast. Indeed, if anything, it made it worse since the agreement did not stop immigration. It only limited it and it allowed entry to the wives and children of Japanese already in the country. This meant that not only would the population of Japanese continue to grow through migration, it would also expand through childbirth, and these children would be American citizens.\(^{184}\)

In response, the California Legislature began in 1907 to push forward a number of discriminatory bills targeting Japanese residents of the state. According to Strong, the intent behind these measures was to force the Japanese out of California by making conditions so difficult for them that they would leave the state “voluntarily.”\(^{185}\) Again, in 1909 and 1911, the state’s legislature proposed more anti-Japanese legislation, including early versions of the alien land law, all of which failed to pass only because of the direct intervention of Presidents Roosevelt and Taft along with California’s Governor James

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\(^{182}\) *Plessy v. Ferguson*, 163 U.S. 537 (1896).


\(^{185}\) Ibid., 43.
Gillette succeeded in stopping them.\textsuperscript{186}

By 1913, Woodrow Wilson, a Democrat, occupied the White House, while the California Legislature remained in the hands of anti-Asian Republican exclusionists. During this session, California's politicians refused to let themselves be dissuaded from their goal of passing anti-Japanese legislation. Indeed, scholars agree that without the bonds of party unity between the state and federal governments there was little to stop the passage of such laws.\textsuperscript{187} Raymond Leslie Buell goes a step further, and asserts that after so many years of failure, the California legislature used this opportunity to create an international incident with Japan in order to bring the Japanese question to the attention of the American public with the hope of obtaining a national Japanese exclusionary policy.\textsuperscript{188}

The first Alien Land Law that California passed prevented aliens ineligible to obtain citizenship from buying land in the future. It allowed them to lease land for agricultural purposes for a period of three years.\textsuperscript{189} The statute did not affect any real property already owned and provisions allowed for the ownership of land by Caucasian owned


\textsuperscript{187} Daniels, Asian America, 139-42; Penrose, California Nativism, 84, 88-90.

\textsuperscript{188} Buell, "Anti-Japanese Agitation II," 62.

\textsuperscript{189} There is little doubt that California's lawmakers overwhelmingly supported the Alien Land Law of 1913, or Heney-Webb bill. The measure passed in the Senate with a vote of 35 to 2, and in the Assembly by 72 to 3. H. A. Millis, The Japanese Problem in the United States (New York: Macmillan Company, 1915), 206.
foreign corporations (Appendix D). Furthermore, this law served as the template that other states followed when drafting similar versions of this type of discriminatory legislation (Appendix E).

Ineligible alien land laws were the only means available to states in their efforts to keep Japanese from settling within their borders. The Fourteenth Amendment prohibited states from passing discriminatory laws affecting a specific group, whether they were aliens or not, and a treaty between the United States and Japan allowed the Japanese to immigrate to and own property for commercial and residential purposes in America but not for agricultural use. The alien land laws skirted these restrictions by relying on the states' constitutional police powers to determine who had the right to own land within an individual state. The idea of prohibiting aliens from land ownership was not a new concept in American jurisprudence; it originated in feudal England and later became codified in English common law during the seventeenth century. In fact, the Supreme Court cited this precedent in Terrance v. Thompson (1923), the first case that upheld the constitutionality of alien land laws.

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192 Calvin’s Case, 7 Coke Report 1a, 77 English Reports 377 (1608).

The immediate effect that the alien land laws had on the Japanese is unclear. Most scholars agree that the majority of these laws contained enough loopholes that it was relatively easy for a determined Japanese to lease or even purchase farmland as long as he found a sympathetic Anglo to act as a front for the transaction.¹⁹⁴ Japanese could also buy land in their children’s name if they were native-born American citizens and then ask the courts to grant them guardianship of the property until the child reached the age of majority. Finally, they established land corporations in which whites held the majority of the stock and the Japanese farmed the land.¹⁹⁵ On the other hand, some scholars insist that the land laws had dire consequences for the Japanese. According to Masao Suzuki, between 1920 and 1930, the acreage farmed by Japanese in California declined by 34 percent, which he attributes to the effects of the land laws.¹⁹⁶ Yuji Ichioka states that the land laws did not force significant numbers of Japanese from their farms, however he agrees that the legislation had a negative effect on the Japanese. He maintains that these laws stigmatized all Japanese as second or third class citizens and produced a general resentment in the Japanese American community toward Anglos that lasted until the internment during the Second World War.¹⁹⁷

The long-term consequences of the alien land laws are beyond the scope of this study,


however, they reinforced the idea that a class of people existed in the United States that were legally ineligible for citizenship and the benefits that it entailed. These laws and other anti-Japanese legislation diminished the civil rights of Japanese and made their legal status questionable. Thus, to some extent, the ineligible alien land laws were a prelude to internment.

When Japanese immigrants entered American society in the 1890s, they suffered discrimination from Anglos who held strong racial prejudices against Asians. Like the Chinese before them, this limited their employment opportunities to niches in the economy where they did not have to compete against whites. The demand for workers in California’s diversified agricultural industry provided tens of thousands of Japanese with employment and soon they were the dominant labor force in this sector. Not content to remain field hands, some Japanese leased farmland and a smaller number purchased it and they began to profit with the production of specialized crops. This angered small Anglo farmers who complained of unfair competition. The organized workers of San Francisco seized upon this issue to demand that anti-Chinese legislation include the Japanese as well. Politicians, always mindful of the next election, supported the drive to push the Japanese out and tried to pass discriminatory laws to do so. They eventually succeeded in obtaining an Alien Land Law in 1913, which barred Japanese in the future from owning agricultural land.
CHAPTER FOUR
NEVADA'S "INELIGIBLE ALIEN" LAND LAW

The real enemies of peace are the agitators of the Asiatic Exclusion League, the yellow journalists, and the yellow politicians, who forgetting their duty to God, their country, and to their fellow men, have attempted to use this question to further their own political fortunes....in a state gone mad on this question.

— Earl S. Parker, to Nevada Governor Emmett Boyle, May 26, 1921.

I believe that the Oriental does not Americanize. I have never seen an Americanized Japanese. There is more danger in permitting deep-seated ill-will to grow out of a thoroughly repugnant contact between Americans and Japanese than exists in the crude diplomacy of the Jingo press and the politicians who reflect public sentiment....The anti-Asiatic sentiment on the Pacific Slope dates back to former days. It is a condition — not a theory [sic]. If it had not crystallized long ago we would, to-day, have a standard of living...far from an American standard. You will know more about the question when you have lived next door to it longer.

— Nevada Governor Emmett Boyle, reply to Earl S. Parker, May 31, 1921.

On November 4, 1924, amid little fanfare, Nevadans voted to approve an amendment to the state constitution that abolished Article 1, section 16 of that document, which granted foreigners the same property ownership rights as native-born citizens:

Foreigners who are, or may hereafter become, bona-fide residents of this State, shall enjoy the same rights in respect to the possession, enjoyment, and inheritance of property as native-born citizens.198

198 Nevada Constitution, art. 1, sect. 16.
This was the state legislature's answer to the supposed "Japanese problem" that was rampant throughout the state, despite the fact that there was not, and never had been, any problem with the Japanese in Nevada.

This constitutional amendment is unique in the annals of discriminatory legislation perpetrated against the Japanese in the United States. It represented a variation of an ineligible alien land law, at least in the minds of Nevada Legislators. In truth, it was a transitional procedure in the development of an alien land law. Yet, for reasons not fully understood, the legislature never passed a statute to prohibit Japanese from owning real property within the state. Because no statutory law exists, scholars tend to ignore this unpleasant chapter of Nevada's legal history.

Considering Nevada's history of racially discriminatory laws against the Chinese dating from at least 1861, it is not surprising that the Japanese living in the state would suffer the same fate during the early twentieth century. The fact that the Japanese constituted only a tiny percentage of the state's population was irrelevant. The local press attacked Asians at every opportunity with inflammatory articles. The majority of Japanese who lived in the state were social outcasts representing the bottom of society. They scratched out a living in agriculture in Nevada's arid climate, worked as laborers on the railroads or in copper mines, in laundries, or as domestic servants. Anglos perceived them as dangerous, not because they were violent, rather, during the era of eugenic thought, because they represented a threat to the racial purity of the dominant race in America, the Caucasian. Events in World War I added to this fear by creating an
atmosphere of nationalism and patriotism that legitimized attacks against anything perceived to be un-American. The Nevada Legislature responded to these fears by including the Japanese in an existing miscegenation law and adopted a strongly worded resolution to United States Congress demanding that Asian immigration stop. In the meantime, California enacted a new alien land law that forced the Japanese question to a head in Nevada. Fearing a massive influx of Japanese after 1920, the state legislature, aided by the Governor and Attorney General, mounted a rigorous campaign to pass their own ineligible alien land law. In a sense, they succeeded when they managed to draft legislation that amended the state constitution by repealing Article 1, section 16, which had formerly safeguarded the rights of foreigners.

No Japanese Question in Nevada

Nevada’s ineligible alien amendment was not the first attempt to restrict the civil liberties of Asians in the state. Besides the local ordinances that discriminated against Chinese, discussed in Chapter One, the Territorial Legislature, in 1861, approved a Miscegenation Law that prohibited the marriage or cohabitation of a white person to or with an Indian, Chinese, or Negro:\textsuperscript{199}

"An Act to Prohibit Marriages and Cohabitation of whites with Indians, Chinese, Mulattos, and negroes [sic]."

(Approved November 28, 1861, p. 93.)

Be it enacted by the Governor and Legislative Assembly of the Territory of Nevada, as

follows:

2472. Section 1. If any man or women intermarry with any black person, mulatto, Indian, or Chinese, the parties to such marriage shall be deemed guilty of a misdemeanor, and, on conviction thereof, be imprisoned in the State Prison for term not less than one year nor more than two years.

2473. Section 2. If any person authorized to perform a marriage ceremony shall unite any such person as mentioned in this Act in marriage, he shall be deemed guilty of a misdemeanor, and, on conviction, be subject to imprisonment in the State Prison for term not less than one year nor more than three years.

2474. Section 3. That if any white person shall live and cohabit together with any black person, mulatto, Indian, or Chinese, in a state of fornication, such person so offending shall, on conviction thereof, be fined in any sum not exceeding five hundred dollars, or be imprisoned in the County Jail not less than one nor more than six months, or both such fine and imprisonment, as the Court may order.

2475. Section 4. All fines collected under this Act shall be paid into the treasury of the county in which the conviction is had, and set apart for the Common School Fund of the State.

The following year, the legislature introduced a Chinese Capitation Tax Bill, which would have taxed all Chinamen living in the Nevada Territory four dollars per month; however, this poll tax legislation failed because it infringed upon the provisions of the Burlingame Treaty. In 1879, Nevada resurrected and passed a bill first proposed in 1861 to bar Chinese nationals from owning real estate:

"An Act to Authorize and Empower Aliens and Non-resident Persons and Incorporations to Take, Hold, Enjoy, and Acquire Real Estate in the State of Nevada."

Approved February 27, 1879

Persons to Take, Hold, and Own Property.

200 Nevada Legislature, M. S. Bonnifield and TAW. Heady compilers, The Compiled Laws of the State of Nevada Embracing Statutes of 1861 to 1873 Inclusive (2 volumes, Carson City, 1871), 1, 590.

201 Billhimer, Pawns of Fate, 78.
2725. Section 1. Any non-resident alien, person, or corporation, except subjects of the Chinese empire, may take, hold, and enjoy any real property, or any interest in lands, tenements, of herditaments within the State of Nevada, as fully, freely, and upon the same terms and conditions as any resident citizen, person, or domestic corporation.\(^\text{202}\)

Ironically, both of the acts listed above violated the ideal of equality under the law laid
fourth in Article 1, section 1, of the Declaration of Rights, enumerated in the state’s
constitution; furthermore, the law denying property ownership rights to Chinese violated
Article 1, section 16 of the same document.\(^\text{203}\) Yet, these inconsistencies did not seem to
bother any of Nevada’s lawmakers or judges until well into the twentieth century.\(^\text{204}\)

With this history of racially motivated discriminatory legislation, it is not difficult to
understand that Nevada legislators would pass anti-Japanese laws during the 1910s and
1920s. What is hard to comprehend is what they hoped to gain from such measures.

\(^{202}\) Nevada Legislature, Statutes of the State of Nevada Passed at the Ninth Session of the Legislature (San Francisco, (1879), 56.

\(^{203}\) Article 1, section 1, deals with the inalienable rights of man states that, “All men are by Nature free and Equal and have certain inalienable rights among which are those of enjoying and defending life and liberty; Acquiring, Possessing, and Protecting property and pursuing and obtaining safety and happiness.” Nevada Constitution, art. 1, sect. 1; Nevada Constitution, art. 1, sect. 16.

\(^{204}\) James W. Hulse, The Silver State: Nevada's Heritage Reinterpreted 2d ed. Reno, NV: University of Nevada Press, 1991), 298. It is interesting to note that Nevada Supreme Court determined that the prohibition against Chinese ownership of real property was unconstitutional in State of Nevada, Ex Rel. Fook Ling v. C. S. Preble, 18 Nev. 251; 2 P. 754 (1884). Never the less, the law remained in the statutes until March 15, 1947, when the legislature amended the Act to Authorize and Empower Aliens and Non-resident Persons and Incorporations to Take, Hold, Enjoy, and Acquire Real Estate in the State of Nevada by dropping the words “except subjects of the Chinese Empire.” Nevada Legislature, Statutes of the State of Nevada Passed at the Forty-third Session of the Legislature (Carson City, 1947), 270. The state’s miscegenation law remained in effect until March 16, 1959, when the legislature repealed An Act to Prohibit Marriages and Cohabitation of whites with Indians, Chinese, Mulattos, and negroes [sic] in full. Nevada Legislature, Statutes of the State of Nevada Passed at the Forty-ninth Session of the Legislature (Carson City, 1959), 216-217.
Simply put, Nevada did not have a large Japanese population and those who did live in the state posed little or no economic threat to the Anglo population.

Census data indicates that between 1890 and 1920, there were relatively few Japanese living in Nevada; instead, the majority of the state’s Asian population consisted of Chinese (Table 7). There are several possible reasons why large numbers of Japanese never settled in Nevada. The first is that the Anglo community was so overtly hostile to them that this discouraged their settlement in the state. Yet, this hypothesis seems unlikely, since if it were correct, then there should be ample evidence of intense anti-Japanese agitation in Nevada’s history like that in California. For example, one would expect to find numerous articles in Nevada newspapers and other literature describing the seriousness of the “Japanese problem” in the state, a well-organized anti-Japanese movement, much like the Asiatic Exclusion League of San Francisco (AEL), operating in the state’s population centers, and the passage of more severe anti-Japanese legislation at an earlier date.

This does not imply that none of these indicators of racial prejudice existed in Nevada during the first decades of the twentieth century. They did. Newspapers contained articles with headlines such as: “Chinks Educated Here Make the Best Showing,” “To Legislate Against the Chinks,” “Insane Japanese are Soon to be Deported,” “Undesirables to be Exiled,” and “Japs in Hawaii Soon to Control.” In fact, an unknown writer for the Tonopah Daily Sun framed the nativist argument against immigration precisely when he argued that northern Europeans made the best Americans, while southern Europeans

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205 Ely Weekly Mining Expositor (Ely, NV), January 16, 1908; Ely Weekly Mining Expositor, February 25, 1909; Reno Evening Gazette (Reno, NV), January 11, 1910; Reno Evening Gazette, January 13, 1921; Reno Evening Gazette, January 31, 1921.
did not and Asians could not because they were “distinct in type, in thought, in every way. And [sic] their allegiance is to an emperor beyond the sea.” In March 1910, a Mr. McMahon, acting as the spokesman for the Anti-Japanese Laundry League in Reno, Nevada, a group loosely affiliated with the AEL, boasted of its success in forcing the Japanese owned, Nevada Steam Laundry, out of business. Still, if the Anglo citizens of Nevada held such extremely anti-Japanese attitudes they would have forced the legislature to pass specific laws against the Japanese. Instead, the legislature chose to reword the state’s miscegenation law, adopt a strongly worded resolution to Congress, and proposed an amendment to the constitution without accompanying statutory legislation to support it as their method for driving the Japanese from the state.

The more plausible explanation for the low number of Japanese in Nevada was the lack of economic opportunity available to them. At the start of the twentieth century, Nevada’s economy was at the end of a twenty-year depression caused by national monetary policies, the Panics of 1873 and 1893, and the depletion of known gold and silver ore deposits. In 1873, Congress passed the Mint Act, or as it was called in the West the “Crime of ’73,” that did not provide for the coinage of silver dollars and contributed to the devaluation of silver. Western states demanded the return of free coinage of silver and Congress responded with the Bland-Allison Act of 1878 that required the federal government to purchase limited quantities of silver. This act did not provide enough relief to the economies of Western states and in 1890 “Silverites” in Congress managed to override a presidential veto in order to pass the Sherman Silver

206 Tonopah Daily Sun (Tonopah, Nevada), August 24, 1907.
207 San Francisco Call, March 21, 1910.
Purchase Act. The Panic of 1893 provided President Cleveland and the Republican Party with the opportunity that they needed to defeat the silver purchase law. In addition, the Panic of 1893, like the earlier Panic of 1873, decreased the consumption of meat and led to the loss of railroad jobs. The economic hardships of the 1880s and 1890s resulted in an exodus from Nevada that reduced the state’s population to just over 42,000 souls by 1900. Within a few years though, new gold discoveries in the southeastern portion of the state and copper mining in McGill and Ruth spurred the economy to new heights. This brief economic history demonstrates the fact that the economy of Nevada relied upon a single industry—mining. There were virtually no other large-scale industries in the state and ranching not farming was the principle form of agriculture.

Nevada’s geographic location assured that the state would never become an agricultural producer. The Nevada-Cascade Mountain Ranges block most of the rain that comes inland from the Pacific Ocean; consequently, Nevada is the most arid state in the union. According to census data, in 1910 there were only 2,689 farms in the state; by 1920 this figure had grown to just 3,163 farms. The size of the average farm in 1920 was

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210 Ibid., 4.

745 acres, of which 188 acres were improved. In other words, roughly, one quarter of the farmland in the state was suitable for growing crops, while the other three quarters were not. The reason for this was lack of water.

The large size of farms and their inability to sustain cultivated crops indicates that grazing livestock was the primary concern of most farmers/ranchers throughout Nevada. Indeed, an unknown Nevadan author from the 1910s describes the state as a “vast expanses [sic] of rich sagebrush land,” and explains that a common farming technique was “running a mowing machine over natural grass meadows, thus providing forage for stock in winter.” Of course, anyone fortunate enough to own land containing a water source, could use irrigation to grow crops, as long as the ground was level enough to allow cultivation. Nevada tried to develop its desert lands during the 1880s and 1890s, but the mining depression eliminated the necessary revenues needed to finance these reclamation projects, and the federal government did not provide funding for this until Congress passed the Newlands Act in 1902 and followed this with New Deal funding during the twentieth century.

The arid conditions also deprived the state of dense forests and the large-scale timber industry that accompanied them in so many other areas of the West. It is true that a woodcutting industry had existed in Nevada since at least the 1860s, however, local

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212 Walker Lake Bulletin (Hawthorne, NV), July 2, 1921.


215 Elliott, History of Nevada, 176-177.
markets used much of this wood in the construction of mines and railroads, or as firewood since it was not high quality. The most common types of trees in Nevada are pinion (Pinus monophylla) and Utah juniper (Juniperus osteosperma). Both grow at elevations of five to eight thousand feet and are “small, shrubby trees, ten to twenty-five feet high,” this made them unsuitable for commercial timber use.

Since most Japanese immigrants gravitated toward agricultural occupations in a vain attempt to avoid conflict with Anglos, there would have been little for them to do in Nevada. This is not to say that no Japanese lived in the state. They did, although their number was low when compared to other Western states (Table 7). Still, a few tried their hand at farming, despite the poor growing conditions. The earliest record of moderate Japanese involvement in agriculture in the Silver State dates to 1910, with the founding of the Nevada Sugar Company at Fallon. This company hired a small Japanese labor force to grow sugar beets after a similar endeavor failed, although, apparently, this second effort was equally unsuccessful. In 1914, one of Nevada’s most successful Japanese farmers, Yonema (Bill) Tomiyasu, arrived in the Las Vegas valley and began raising alfalfa, melons, and onions. He was so successful that he even managed to continue his farming operations throughout World War II and later he started a nursery.

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217 Weaver, “Nevada’s Federal Lands,” 42.

business. Other attempts by Japanese to grow melons in communities such as Overton and Logandale failed. Celery and winter lettuce were other crops that Japanese farmers grew in the Fallon area as late as 1924; yet, the results of these experiments are unknown.

The major employers of the Japanese between 1900 and 1920 were railroads, the Nevada Consolidated Copper Company (NCCC) near McGill, and the Liberty Pit Mine at Ruth. During 1906, the first sizable contingent of sixty some Japanese arrived in the state to help build the Nevada Northern Railroad from Cobre to Ely. Soon after their arrival, the line was completed and some of them remained employed on the railroad as section hands. There is also evidence to suggest that numerous Japanese began working in the mines of the NCCC that same year. In 1912, labor unrest at the Guggenheim’s Bingham Canyon copper mine in Utah spread to the family’s mines at McGill and Ruth, Nevada, resulting in a short but violent strike. The company fired Greek miners believed responsible for the incidents at both camps and replaced them with over one hundred Japanese. Until about 1920, the number of Japanese employed at each mine averaged

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221 Churchill County Eagle (Fallon, NV), July 12, 1924.


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between seventy and one hundred men, which included a few women and children.224

The final occupation in the state that employed appreciable numbers of Japanese, at least in Reno, Nevada, was the domestic servant industry.225

With so few viable avenues for employment, it is not surprising that Nevada’s Japanese population remained small during the early decades of the twentieth century. What is astonishing, is that the state’s legislature would pass discriminatory legislation aimed specifically at the Japanese. Even more amazing, is how ineffective these actions were and the length of time it took to achieve them.

**Nevada’s Early Attempts at Anti-Japanese Legislation**

On any level, it is hard to argue that there was ever a Japanese problem in the Silver State. The small number of Japanese who lived in Nevada did not pose an economic, political, or a social threat to the larger Anglo populace. The climate of the state precluded the development of strong agricultural or timber economies and helped to limit Japanese settlement, which in turn, lessened the possibility that they would enter into other employment and possibly underbid white laborers. Politically, the Japanese were powerless because the courts held long established precedents that denied them citizenship.226 Socially, on the other hand, Caucasians perceived the Japanese as dangerous, although the motivation for this belief was racially inspired and had little to

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225 Iwata, *Planted in Good Soil*, vol. 2, 624.

226 *In re Ah Yup*, 1 F Cas. 223, 5 Sawyer 155 (1878); *In re Saito*, 62 F. 126 (Mass. 1894).
do with the facts.

One might expect to find evidence of high crime rates among the Japanese that could justify Anglo anxieties about them; however, this was not the case. In Nevada, an examination of the “Biennial Report of the Warden of the State Prison,” in numerous volumes of the Appendix to Journals of Senate and Assembly of the Legislature of Nevada between 1897 and 1923, reveals the incarceration of only three Japanese. In 1904, the first Japanese to serve time in the Nevada State Penitentiary was M. Uyeda. He was a twenty-nine year old interpreter living in Washoe, County who received a two-year sentence for assault. The second was H. B. Yoshino, a cook and resident of Washoe, County, twenty-nine years of age. His crime was forgery, for which he received a sentence of five years. The final Japanese imprisoned at the state’s penitentiary remains unnamed, because Warden D. S. Dickerson stopped listing prisoners by name in 1915, a practice followed thereafter, yet one inmate’s nationality is “Japan” in the 1914, “Biennial Report of the Warden of the State Prison.” In fact, as late as 1923, these

227 The Appendix to Journals of Senate and Assembly of the Legislature of Nevada is a multi-volume series published biennially in conjunction with the Journal of the Senate of the Legislature of Nevada and the Journal of the Assembly of the Legislature of the State of Nevada from 1861 until today. As such, each volume, or volumes, of the Appendix coincide with a specific session of the legislature, for example, the eighteenth or the thirty-second. To list citations to every volume of the Appendix consulted would be redundant. Full citations to individual volumes of the Appendix that are relevant to this study will be included.

reports list no other natives of Japan as prisoners in the state’s correctional facilities. Certainly, there were some Japanese housed in county jails across the state during this same period, yet they would have been serving time for less serious misdemeanor charges, such as vagrancy, petty theft, or public drunkenness. Granted, Nevada may not be the best place to look for high levels of Japanese crime since the state had such a low population of Asians; yet even when turning to California statistics it is obvious that Japanese were no more prone to criminal activity than any other ethnic group.

In 1920, California’s Asian population was the highest in the union; however, they made up only 2.9 percent of the state’s residents, with the Japanese representing about two thirds of that number. In a study of Asian crime rates in the state conducted during the early 1930s, which examined the total number of arrests of Chinese and Japanese between 1900 and 1928, researchers found that the Japanese constituted a mere 0.9 percent of those arrested statewide. Moreover, they found that the overall ratio of Asian arrests declined over the years and concluded that the Japanese in particular were law-abiding.229

Regardless, during the first decades of the twentieth century, the popularity of the pseudo sciences of race theory and eugenics reached their zenith, and Anglos believed that Asians posed a threat to society simply because their presence suggested the

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possibility that the introduction of inferior genes would dilute the racial purity of a Caucasian nation. During March 1910, this irrational fear seemed to come to fruition in Nevada when a judge in the city of Goldfield married California residents N. Y. Inuto and Vivian Blackwell. This was the first known instance of an interracial marriage between a Japanese and an Anglo in the state. The public was outraged, especially when, within a year, two other interracial couples from California applied for marriage licenses with mixed results.

When the Nevada Legislature met the following year, it tried to add Japanese to those deemed unsuitable under the state's miscegenation law. Oddly, given the level of indignation that the Anglo population expressed toward these marriages, the measure failed to secure passage. An examination of the Journals of the Assembly and Senate failed to yield the reason for this and the lack of notes or minutes of legislative committee

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232 The second couple to receive a marriage license at Goldfield, NV was George Nasaki and Juliet Schawam, of Los Angeles, who, on March 15, 1910, were unable to locate any official to marry them. A deputy sheriff then escorted them to a train bound for Tonopah, NV in order to protect them from an angry mob. Apparently, they fared no better in Tonopah and were eventually married in New Mexico. Reno Evening Gazette, March 16, 1910; Billhimer, Pawns of Fate, 34, n. 114. The third couple was H. H. Beckon and Miss L. A. Frederick, of San Francisco, who were unable to secure a license in Reno on December 23, 1910, until after they hired a local attorney to assist them. The couple was then unable to find a judge to marry them and had the service performed by a Minister of the First Methodist Church. Reno Evening Gazette, December 23, 1910.

233 Billhimer, Pawns of Fate, 34.
meetings and floor debates compound the problem.\textsuperscript{234} It was not until 1919, that the Legislature revised Number 2472, section 1 of the "Act to Prohibit Marriages and Cohabitation of whites with Indians, Chinese, Mulattos, and negroes [sic]" to read:

\begin{quote}
It Shall be unlawful for any person of the Caucasian or white race to intermarry with any person of the Ethiopian or black race, Malay or brown race, or Mongolian or yellow race, within the State of Nevada.\textsuperscript{235}
\end{quote}

The failure of the proposed Miscegenation Law in 1911 suggests that perhaps there was widespread support for the Japanese among members of the Nevada Legislature. In fact, this assumption is incorrect; the legislature seems to have been the epicenter of anti-Japanese agitation in the state. Evidence to support this claim lies in the fact that during the same 1911 session that the miscegenation law was defeated, Nevada’s lawmakers passed a strongly worded resolution against continued Japanese immigration:

\begin{quote}
Whereas, Immense [sic] hordes of Japanese and Hindus are invading our country to the detriment of our people and the very existence of our nation by reason of their un-American principles and antagonism toward our form of government, inspired by an avaricious motive of displacing American labor by reason of working for a scale of wages utterly impossible for any white laborer to exist upon in [a] manner commensurate with civilized conditions, thereby competing against white labor and endangering in countless instances misery and suffering upon the dependents of American workingmen; and

Whereas, A [sic] continuation of the aforesaid immigration unimpeded by more stringent immigration laws will create untold and indescribable complications and trouble upon this generation, and generations yet unborn, within the boundaries of this great republic; therefore, be it

\textit{Resolved} [italics original], That [sic] we most emphatically condemn such laws as allow the aforesaid immigration, and we recommend that such laws be passed as will effectually stop the indiscriminate immigration of such nationalities hereinafter
\end{quote}

\textsuperscript{234} Nevada Legislature, \textit{Journal of the Assembly of the Twenty-fifth Session of the Legislature of the State of Nevada} (Carson City, 1911), 38, 64-65, 67, 69, 177, 190; Nevada Legislature, \textit{Journal of the Senate of the Twenty-fifth Session of the Legislature of the State of Nevada} (Carson City, 1911), 60, 91, 129.

\textsuperscript{235} Nevada Legislature, \textit{Statutes of the State of Nevada Passed at the Twenty-ninth Session of the Legislature} (Carson City, 1919), 124.
mentioned; and be it further

Resolved [italics original], That [sic] copies of this resolution be at once forwarded to the speaker of the house of representatives and to the president of the senate, and to our United States senators and congressmen.\textsuperscript{236}

It is curious why Nevada’s lawmakers would draft such a document, especially since there were relatively few Japanese that lived in the state at that time (Table 7).\textsuperscript{237} The wording in the first part of the resolution, “Immense hordes of Japanese and Hindus,” implies several things about its underlying intentions. The first, was that Nevada’s lawmakers supported California’s efforts to pass anti-Japanese legislation. Why the Silver State should choose to support California in its attempts to discriminate against the Japanese remains a mystery, yet the two states shared a history of political and economic ties that dated from the early 1860s, and this could have contributed to the development of anti-Japanese attitudes among Nevada’s Legislators.\textsuperscript{238}

Second, it may have been as simple as an article in the \textit{Ely Weekly Mining Expositor} suggested. The fact that the legislatures of California, Idaho, and Oregon were in the process of considering anti-Japanese legislation made it an important regional political issue and was reason enough for Nevada to enter the fray with the intent of “holding American soil for Americans.”\textsuperscript{239} This would have helped create a solid block of Western states that wanted to restrict Japanese immigration and Nevada would likely

\textsuperscript{236} Nevada Legislature, “No. 17—Senate Joint and Concurrent Resolution, relative to Japanese and Hindu immigration.” in \textit{Statutes of the State of Nevada Passed at the Twenty-fifth Session of the Legislature} (Carson City, 1911), 456.

\textsuperscript{237} \textit{Ibid}.

\textsuperscript{238} Hulse, \textit{Silver State}, 82-4, 103-104, 115.

\textsuperscript{239} \textit{Ely Weekly Mining Expositor}, February 11, 1909.
have benefited politically from supporting this effort.

Finally, Anglos in the state might have demanded some type of anti-Japanese measure because they believed that a larger population of Japanese existed than the census records indicated. This scenario is plausible when one considers that to get from California to points east, travel through Nevada was essential. The Central Pacific Railroad crossed the northern tier of the state, which included the cities and towns of Reno, Lovelock, Winnemucca, Battle Mountain, Palisade, Elko, and Wells. All of which were either local centers of commerce or county seats, and as such, would have attracted Anglos from other areas of the state to conduct business there. The presence of Japanese in various stages of their journey across Nevada, or the presence of Japanese railroad work gangs operating in these towns might have made it appear that there was a substantial community of Japanese in the Silver State.\footnote{The number of Japanese who traveled through Nevada is unknown. Yet, excluding the states of California, Oregon, Washington, and New York, all of which contained major port cities, five other states reported a larger population of Japanese in 1910 than Nevada. They were Montana, Idaho, Wyoming, Colorado, and Utah. Bureau of the Census, "Historical Census Statistics on the Foreign-born Population of the United States: 1850-1990", Campbell J. Gibson and Emily Lennon, prepared by the Population Division, \textit{Population Division Working Paper No. 29} Bureau of the Census (Washington, D.C., February 1999). Table C-10. \url{http://www.census.gov/population/www/documentation/twps0029/twps0029.html} (15 February 2004); Yamato Ichihashi, \textit{The Japanese in the United States: A Critical Study of the Problems of the Japanese Immigrants and Their Children} (Stanford: Stanford University Press, 1932), 163, 169-72.}

While the effect of Nevada’s anti-Japanese resolution was symbolic, responses to it from eastern and southern states demonstrate that anti-Japanese hysteria was a western phenomenon. The \textit{Washington Post} published an editorial lampooning it:

\begin{quote}
It is a savage thrust which Nevada delivers to Japan from behind the ramparts of the Sierra Nevadas. The wrath of Nevada over California’s troubles is something terrible
\end{quote}
to see and hear. Nevada’s legislature rises with protruding chest and horrid puffing cheeks to hurl back upon Japan the taunt that flames to war...It becomes serious matter, indeed, when a proud, populous commonwealth like Nevada,...commits its 7123 able bodied citizens to the dread shock of war in behalf of its neighboring state....The state had developed in population and fighting spirit until it is one of the terrors of the earth....Let Japan beware! It was easy enough to fight Russia....But it would be a different matter to tackle Nevada. Her defenders, who do not even know the taste of water.241

An editorial also appeared in the Ely Weekly Mining Expositor indicating that southern states were more concerned with their own internal racial problems between blacks and whites than they were about those in the West between Anglos and Japanese, “The south contends, and logically, that the Japanese and the negro [sic] are on entirely different planes, and must be handled accordingly.”242 The Expositor then countered this argument by imploring its readers to think of the “Japanese problem” on a national scale rather than as a sectional issue.243

Between 1911 and 1919, the state legislature was strangely quiet on the Japanese issue. Aside from rewording the miscegenation law in 1919 to include Japanese, no other discriminatory action against the Japanese occurred in Nevada. Several possibilities for this situation exist. First, after California passed its ineligible alien land statute in 1913, Nevada’s lawmakers may have assumed that the crisis was over or they were waiting to access the impact that California’s law had on the Japanese before passing additional legislation of their own. Alternatively, the Japanese issue was never that important to Nevadans to begin with, and the state’s lawmakers simply left the matter alone. What is

243 Ibid.
most likely though, is that the events of the First World War interrupted the momentum of anti-Japanese agitation throughout much of the western United States and postponed the passage of further legislation.  

Nevada Takes A Stand

Even before the United States entered World War I, it was obvious that the nation’s unrestricted immigration policies would not continue indefinitely when President Wilson signed the Immigration Law of 1917 that created an Asiatic “barred zone” that excluded most Asian laborers from future immigration. That year, Arizona passed its own alien land law based on California’s model ( Appendix E ). The armistice and the rise of Bolshevism ushered in a new era of xenophobia toward immigrants in American society fueled by the ideals of nationalism, patriotism, and conformity finely honed under the wartime “100 per cent Americanism” movement.

In this racially charged atmosphere, anti-Japanese agitation resumed with renewed enthusiasm. Once again, Californian newspapers led the attack; arguing that the Japanese were dangerous to American society because, among other things, they had a high reproductive rate, took Caucasian jobs, could not assimilate, owned farmland, and attended Japanese language schools. The Nevada press also engaged in fueling the

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245 Higham, Strangers, 203, 204; Jacobson, Barbarian, 84-85, 200-201.
246 For an analysis of 100 percent Americanism, see, Higham, Strangers, 204-33.
247 Sacramento Bee (Sacramento, CA), June 9-17, 1919.
fires of racial prejudice. In 1919, the Reno Evening Gazette capitalized on the murders of three Chinese officials in Washington, D.C. to urge the country to gain a better understanding of the West’s problem with Eastern Asians.\footnote{Reno Evening Gazette, “The Chinese and the Law,” February 1, 1919.} The implication was that the Chinese did not assimilate in American society and were an uncivilized race that should not be in the United States. The following year, the same publication printed an article that stated, “Nevada is a state of white people and we do not invite, nor do we want the little yellow man acquiring property within our borders.”\footnote{The Reno Evening Gazette lists the byline for “A Nation of White People,” as the Sparks Tribune, Sparks, Nevada. An examination of incomplete issues of the Tribune between June and August 1920, on microfiche, at the Lied Library, University of Nevada, Las Vegas failed to yield the original article. Reno Evening Gazette, “A Nation of White People,” August 21, 1920.} In 1920, voters in California secured an initiative measure to amend the Alien Land Law of 1913, which theoretically made it impossible for ineligible aliens to lease land or hold land in guardianship for minors, and punished attempts to evade the law. During the general election that year, the measure became law with 668,483 votes in support and only 222,086 against it.\footnote{Raymond Leslie Buell, “The Development of the Anti-Japanese Agitation in the United States II,” Political Science Quarterly 38, no. 1 (Mar., 1922): 70, 72. http://www.jstor.org/} The passage of this law, set events in motion in Nevada that ultimately culminated in the amendment of that state’s constitution in 1924, to deny foreigners the right to own property.

The intent behind California’s ineligible alien land laws was to drive the Japanese out of Nevada. In 1920, the Reno Evening Gazette capitalized on the murders of three Chinese officials in Washington, D.C. to urge the country to gain a better understanding of the West’s problem with Eastern Asians. The implication was that the Chinese did not assimilate in American society and were an uncivilized race that should not be in the United States. The following year, the same publication printed an article that stated, “Nevada is a state of white people and we do not invite, nor do we want the little yellow man acquiring property within our borders.” In 1920, voters in California secured an initiative measure to amend the Alien Land Law of 1913, which theoretically made it impossible for ineligible aliens to lease land or hold land in guardianship for minors, and punished attempts to evade the law. During the general election that year, the measure became law with 668,483 votes in support and only 222,086 against it. The passage of this law, set events in motion in Nevada that ultimately culminated in the amendment of that state’s constitution in 1924, to deny foreigners the right to own property.

of the state by making living conditions for them as unpleasant as possible. It seems that to a limited degree this plan was successful. After California passed its new land law two Japanese, Juichi Kito and Kensuke Ito, moved from that state into the area of Fallon, Nevada and purchased a ranch. This infuriated the local Anglo population and they began a campaign to exclude the Japanese. The Churchill County Chamber of Commerce went so far as to post signs at the railroad station reading: “Japs Not Wanted Here.” In early March 1921, one hundred eighty white citizens attended a public meeting to solve the Japanese problem at Fallon. They decided to petition their state and federal representatives to enact exclusionary legislation against future Japanese immigration and to initiate a boycott of all Japanese owned establishments and other businesses that employed Japanese in an effort to drive the twenty-five Japanese residents from town (Appendix 3). The Fallon Standard reported that, “Many spoke for and against the Nipponese and the sentiment was emphatically divided. Starting at nowhere they arrived at nowhere and a confounding and vexatious question was not clarified.” Whether or not the proposed boycott occurred is unknown, although, if it did, it failed.

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252 Russell, Friends, Neighbors, 29.

253 Caliente News (Caliente, NV), March 10, 1921.

254 Walker Lake Bulletin, March 26, 1921.

255 A search of the Nevada newspaper collection on microfiche at the Lied Library, University of Nevada, Las Vegas failed to produce evidence that the anti-Japanese boycott at Fallon actually occurred. Leading the author to believe that it did not, since other Nevada newspapers would surely have reported the success or failure of the attempt to force the Japanese from Fallon.
Later that year, Anglo landowners in Churchill County instituted a policy of leasing land to Japanese farmers for as long as ninety-nine years, rather than selling them land outright.\(^{256}\)

Perhaps the overreaction to the presence of two Japanese landowners in Fallon arose from the fact that agricultural prices plummeted across the United States after the First World War and Anglos may have feared the increased competition in local markets.\(^{257}\) In any case, after the Japanese scare in Fallon subsided, Nevada’s press continued to print inflammatory articles against the Japanese. The *Sparks Tribune* reported that Japanese melon pickers in Turlock, California under bid white laborers in an attempt to portray the menace of Japanese to white labor.\(^{258}\) Oddly, the paper failed to mention that this resulted in the infamous “Turlock incident,” in which hundreds of armed white men descended on a Japanese farm camp under cover of darkness on July 18, and forced fifty-eight Japanese onto a nearby freight train with instructions not to return.\(^{259}\) A writer for the *Reno Evening Gazette* admonished the state legislature for not taking action against the Japanese in 1919, and called for a new “law to block the growth of the Japanese population and prevent Japanese from becoming owners of real property in Nevada,” claiming that there was widespread popular support for such a measure in Washoe and


\(^{258}\) *Sparks Tribune* (Sparks, Nevada), July 22, 1921.

\(^{259}\) Buell, “Anti-Japanese Agitation II,” 73.
Elko Counties. Of course, today it is impossible to know how much public support existed for exclusionary legislation in Nevada at that time. Yet, the state's Governor Emmett D. Boyle and Attorney General Leonard B. Fowler eagerly answered the demands for exclusionary legislation by continuing their efforts to bar the Japanese from owning land in the state.

There is no doubt that Emmett Boyle, Governor of Nevada from 1915 to 1922, was a racist. An examination of his papers reveals that he held a deep-seated hatred of all things Asian, especially the Japanese. In surviving correspondence with others relating to the Japanese issue, Boyle made his feelings quite clear. Moreover, his attitude toward the Japanese never wavered during his term as governor. In one particular letter, Boyle speaks with pride on behalf of all Nevadans as he explains to Harvard Law School researcher A. F. Shafkey that "an almost unanimous sentiment for the exclusion of the Japanese exists....The prejudice of our citizens here is as great as that of the


261 "I now and always have been a believer in the proposition that the Asiatics who come to our shores cannot be properly assimilated;" Governor Boyle to S. G. Ames, October 25, 1920. Boyle Papers, Japanese Immigration File, Nevada State Library and Archives, Carson City, Nevada; "I am generally in sympathy with the proposition of presenting a united front on behalf of all the Western States against the proposals which may arise looking to the letting down of the bars now up against Asiatics." Governor Boyle to John S. Chambers, November 14, 1920. Boyle Papers, Japanese Immigration File, Nevada State Library and Archives, Carson City, Nevada; "Since I am very definitely committed to a policy of complete exclusion of the Japanese,..." Governor Boyle to V. S. McClatchy, December 7, 1920. Boyle Papers, Japanese Immigration File, Nevada State Library and Archives, Carson City, Nevada; "There is a well-defined anti-Oriental sentiment in Nevada and I am certain that our people will register a proper protest against any legislation calculated to embarrass the states interested in avoiding the ill effects of an unwise immigration policy." Governor Boyle to V. S. McClatchy, July 18, 1921. Boyle Papers, Japanese Immigration File, Nevada State Library and Archives, Carson City, Nevada.
Less is known about Leonard Fowler, although he must have shared Boyle’s racist ideals since the Reno Evening Gazette referred to him as “the pioneer of the anti-Japanese movement in Nevada.”

The fragmentary nature of the documentation relating to the efforts of the Nevada Legislature to pass an ineligible alien land law make it difficult to trace its progress with certainty. Still, enough traces of it exist that one can piece together the general outline of its development. On March 13, 1919, Attorney-General Fowler expressed his official opinion on a proposed Senate Bill Number 22, in a letter to Governor Boyle entitled, “United States Treaties With Foreign Governments—State Statutes Conflicting Therewith Invalid.” According to Fowler, the bill would not violate any current federal laws that dealt with an alien’s right to hold, transfer, or inherit real property. Therefore, it would be legal, should the governor sign it, as long as it was not overturned in the courts. In addition, he expressed his concerns that the existence of Article 1, section 16, dealing with the rights of foreigners, in the state constitution might provide legal grounds for defeat in the courts and suggested the repeal of this amendment first.

Considering the title of the letter and the precise language used in Fowler’s response, especially regarding the rights of foreigners to hold land under the constitution, it seems obvious that Senate

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262 Unsigned correspondence between Governor Boyle and A. F. Shafky, April 11, 1922. Boyle Papers, Japanese Immigration File, Nevada State Library and Archives, Carson City, Nevada;


Bill Number 22 was an ineligible alien land law. Unfortunately, the text of this bill is missing and there is no way to know this with certainty.

The Senate Bill Number 22 that the legislature adopted in 1919 dealt with water rights. Nevada law stipulates that all bills must receive three readings in both houses of the legislature and are then printed for public inspection before becoming law. In fact, an examination of the Journals of the Senate and Assembly for 1919, reveals the fact that no reference to any type of alien land law legislation exists in the journal of either house. This meant that the bill dealing with the alien land laws never made it into the legislative process and explains why no documentation of it exists.

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265 The full title of Senate Bill Number 22 passed in 1919, reads: "An Act to amend section 59 of an Act entitled 'An Act to provide a water law for the State of Nevada; providing a system of state water control; creating the office of State Engineer and other offices connected with the appropriation, distribution, and use of water; prescribing the duties and powers of the State Engineer and other officers, and fixing their compensation; prescribing the duties of water users, and providing penalties for failure to perform such duties; providing for the appointment of Water Commissioners, defining their duties and fixing their compensation; providing for the fee system, for the certification of records, and an official seal for the State Engineer's office; providing for an appropriation to carry out the provisions of this Act; and other matters properly connected therewith; and to repeal all Acts and parts of Acts in conflict with this Act; repealing an Act to provide for the appropriation, distribution, and use of water; and to define and preserve existing water rights, to provide for the appointment of a State Engineer, and Assistant State Engineer, and fixing their compensation, duties and powers, defining the duties of the State Water Board of Irrigation, providing for the appointment of Water Commissioners and defining their duties, approved February 26, 1907;’ also repealing an Act amendatory of a certain Act entitled ‘An Act to provide for the appropriation, distribution, and use of water, and to define and preserve existing water rights, to provide for the appointment of a State Engineer and fixing their compensation, duties, and powers, defining the duties of the State Board of Irrigation, providing for the appointment of Water Commissioners, and defining their duties, approved February 26, 1907, and to provide a fee system for the certification of the records of, and an official seal for, the State Engineer's office, and other matters relating thereto,’ approved February 20, 1909." Nevada Legislature, Journal of the Senate of the Twenty-ninth Session of the Legislature of the State of Nevada (Carson City, 1919), vi.

266 Hulse, Silver State, 250.
This still leaves several questions unanswered. First, according to the Reno Evening Gazette, legislators discussed anti-Japanese legislation during the 1919 session of the Assembly. Aside from the Miscegenation Law, what these measures were is unknown since neither the Journal of the Assembly nor Nevada's newspapers mention them. Yet, it is probable that the original Senate Bill Number 22, the ineligible alien land law, was one of these since the support of the Assembly was necessary in order for it to pass.

Second, who drafted the alien land law and what provisions did it contain? If it was Boyle, which appears possible given his prejudice against the Japanese and the fact that he requested the Attorney General's opinion on it before it went to the Senate, surely it would have been as harsh as possible, perhaps even strict enough to guarantee that it would trigger a legal challenge. Finally, what became of this bill and why it never reached the floor of the legislature in a later session? Until a draft of the bill that Fowler provided an opinion on surfaces, the first two questions will remain unanswered; however, there are possible answers for the third question.

Nevada Legislators never passed an ineligible alien land law because they had to amend the state constitution first in order to rid themselves of the restrictions of Article 1, section 16. Under law, the state's legislators only received pay for a sixty-day session during the early decades of the twentieth century. The date of Fowler's opinion, March 13, 1919, suggests that the 1919 session was too far advanced to introduce a new bill to amend the constitution. Instead, they waited until 1921, when there would be

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268 Hulse, Silver State, 251.
enough time to submit the necessary bill and guide it through the legislative process.

During the following session, both houses introduced different resolutions to amend the constitution. Senate Joint Resolution No. 2 was more complex since it altered the wording of the original section:

Foreigners who are, or may hereafter become, bona-fide residents of this State, shall enjoy the same rights in respect to the possession, enjoyment, and inheritance of property as native-born citizens, except as otherwise provided by the laws of this State; and also provided [sic], that foreigners who are ineligible to become citizens of the United States shall not hold, enjoy, possess, or inherit real property which is adapted to agriculture, horticulture, viticulture, grazing, or mining.\textsuperscript{269}

Notice that the proposal contains the clause, “foreigners who are ineligible to become citizens,” this clearly targeted the Japanese, although it could mean other Asian nationalities like Filipinos and Koreans as well since they were all ineligible for American citizenship. The Senate unanimously approved this version by a vote of seventeen to zero and sent it to the Assembly for approval. This was as close as Nevada ever came to passing recognizable ineligible alien land legislation.

In the Assembly, Senate Joint Resolution No. 2 fared poorly in its original form. The idea in the Assembly was simply to remove the offending section of the constitution. The Assembly’s counterproposal, Assembly Joint Resolution No. 6, made this very clear, “relative to amending article 1, of the Constitution of the State of Nevada by repealing section 16 thereof.”\textsuperscript{270} The Assembly solved this problem by amending Senate Joint Resolution No. 2 to read, “relative to amending article 1, of the Constitution of the State

\textsuperscript{269} Nevada Legislature, Journal of the Senate of the Thirtieth Session of the Legislature of the State of Nevada (Carson City, 1921), 29.

\textsuperscript{270} Nevada Legislature, Journal of the Assembly of the Thirtieth Session of the Legislature of the State of Nevada (Carson City, 1921), 78.
of Nevada by striking out section sixteen thereof.\textsuperscript{271} This Assembly then approved this
document with a vote of twenty-five yeas to twelve nays and returned it to the Senate for
final approval.\textsuperscript{272}

Apparently no one in the Senate was in any mood to argue with the Assembly’s
decision to remove section sixteen of the constitution, the rewritten \textit{Senate Joint
Resolution No. 2} was, again, unanimously accepted and entered into the \textit{Statutes of
Nevada} as:

\begin{quote}
Resolution No. 14—\textit{Senate Joint Resolution, relative to amending article 1 of the
constitution of the State of Nevada, by striking out section sixteen thereof.
Resolved by the Senate, the Assembly concurring [sic], That article 1 of the
constitution of the State of Nevada be amended by striking out section sixteen (16)
thereof.}\textsuperscript{273}
\end{quote}

Following the legal procedures necessary to amend the state constitution, both houses of
the legislature re-read and re-approved \textit{Resolution No. 14} during the 1923 legislative
session, it was then placed on the ballot of the next general election as \textit{Question No. 2},
and reentered in the \textit{Statutes of Nevada} under the same title.\textsuperscript{274} On November 4, 1924,

\textsuperscript{271} \textit{Ibid.}, 125.

\textsuperscript{272} \textit{Ibid.}; The actual Assembly vote on \textit{Senate Joint Resolution No. 2} was twenty-five
for, eight against, two not voting, and two absent. Yet, under Nevada law, legislators not
voting or absent are counted as no votes, see, \textit{Hulse, Silver State}, 250.

\textsuperscript{273} \textit{Nevada Legislature, Statutes of the State of Nevada Passed at the Thirtieth
Session of the Legislature} (Carson City, 1921), 416.

\textsuperscript{274} The Nevada constitution stipulates that constitutional amendments pass in both
houses of the legislature with a majority vote and the results entered in the respective
\textit{Journals} of each house. After that, the state publishes the proposed amendment for public
inspection for three months before the next election. When the legislature returns for its
next session it re-reads the amendment and then votes on for a second time. If it wins a
majority in both houses again it goes before all eligible voters. Thus, due to the biennial
nature of the state’s legislature, it takes at least two years to amend the state constitution.
\textit{Nevada Constitution}, art. 16, sec. 1; \textit{Nevada Legislature, Statutes of the State of Nevada

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the voters of Nevada approved Question No. 2 by a margin of twenty-two votes out of the total 12,278 cast and Article one, section sixteen of the Nevada constitution ceased to exist.

Surprisingly, the Nevada Legislature’s attempt to bar Japanese from owning real property in the state abruptly ended after the approval of constitutional amendment to remove the rights of foreigners to own land. The reasons for this are unclear. Both Emmett Boyle and Leonard Fowler were out office by 1923. Perhaps these two men really were the driving force behind the anti-Japanese movement in the state. After all, they did work together diligently in 1920 and 1921 to draft the mysterious Senate Bill No. 22 and quite possibly the original version of Senate Joint Resolution No. 2.\textsuperscript{275} Yet, it is simply too easy to blame everything on these two men.

There was obvious support in the legislature for discriminatory laws. Nevada lawmakers rewrote the miscegenation law in 1919, and during 1921 and 1923, approved the resolution to amend the constitution. In addition, they adopted an “Act to Promote Americanism in the schools of the State of Nevada” in 1923, which did not discriminate against any group, but did promote the idea of assimilation by making the study of American history and civics mandatory in all public educational institutions and required these schools to fly the nation’s flag when in session.\textsuperscript{276} It is doubtful that the prejudices these men held against the Japanese evaporated after they amended the constitution. The

\textsuperscript{275} Nevada State Herald (Wells, NV), “State Officials to Protect Against Japs,” January 14, 1921.

\textsuperscript{276} Statutes of Nevada (1923), 28-29.
voters’ response, on the other hand, may have caused them to reexamine the Japanese issue in Nevada in a new light.

At the polls, twenty-two votes determined the success of Question No. 2. This hardly amounted to the overwhelming majority that Boyle predicted three years earlier or, proportionally, to the almost three-to-one success enjoyed by California’s 1920 alien land law.\(^{277}\) Almost five years separated the initial Japanese scare at Fallon and the 1924 election. Clearly, with the passage of time, Anglos realized that the Japanese were not a serious threat. The results for 1924 election provide evidence of this. During that election 26,679 Nevadans cast ballots, 12,529, or slightly less than 47 percent, of these voters even bothered to vote on Question No. 2. Incredibly, the amendment passed with the approval of only 23.5 percent of the voters.\(^{278}\) A possible explanation for this low acceptance of the amendment might lie in the high number of white foreign-born residents, who comprised 20.7 per cent of Nevada’s population in 1920, and may have voted against the measure because they mistakenly thought that it would adversely affect them.\(^{279}\) Given the high degree of anti-immigrant sentiment throughout the nation during the early 1920s, it was conceivable that legislative efforts to extend the exclusionary limits on the purchase and leasing of land could apply to southeastern Europeans, thereby making it difficult for them to establish homes or bring their relative to America.

\(^{277}\) In 1921, Boyle claimed that the majority of Nevadans supported his intentions to solve the Japanese problem. Nevada State Herald, “State Officials to Protect,” January 14, 1921.


In addition, changes in immigration policy at the national level may have stopped Nevada Legislators from continuing their attempt to pass an ineligible alien land law. In 1924, Congress seemingly resolved the immigration controversy when it passed the Johnson-Reed Act that placed tougher quotas on European immigrants and ended Japanese immigration. Whatever the cause, the subject of alien land laws never again resurfaced in the recorded history of the Nevada Legislature.

Throughout the latter half of the nineteenth century and well into the twentieth Nevada’s Anglo majority carried in its heart a racial prejudice against Asians. Laws that discriminated against them predated statehood. That Asians, the Japanese in particular, constituted a small proportion of the state’s population was unimportant. The press freely assailed them in lurid articles designed to portray them in the worst possible light. The marginal employment opportunities available to the Japanese assured that they would remain on the bottom rung of the socioeconomic ladder. Anglos feared them for no other reason than that they posed a threat to the existing social order. The misguided nationalism whipped up by the United States entry into World War I made matters worse by creating an environment of intolerance toward anything considered un-American. Nevada’s Legislature participated in this by adding the category of Japanese to a miscegenation law and officially demanding that Congress halt further Asian immigration. California went further and passed several alien land laws, which in turn brought the Japanese question to a boiling point in Nevada. This played into the hands of the state’s political leaders who wanted to ensure that Nevada remained free of any Japanese influence. They expressed their own form of racism by formulating an

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280 Higham, Strangers, 324.
amendment to the constitution that attempted to strip foreigners of their right to own real property in Nevada.
EPILOGUE

[America] is God's crucible, the great Melting Pot where all the races of Europe are melting and re-forming...Germans and Frenchmen, Irishmen and Englishmen, Jews and Russians—into the Crucible with all of you! God is making the American.


If we are going to exclude Japanese immigrants, let us exclude them because it is a wholesome thing, the right thing, the just thing to do for the United States and for the American people.

—Senator Thomas Sterling, SD (R), *Congressional Record*, 68th Cong., 1st sess., 1924.

On December 22, 1924, a restaurant owner in Battle Mountain, Nevada died in his sleep. The man's obituary, printed on the front page of the local newspaper, stated that he was a long-time "honorable citizen" of the community whose heart was full of generosity and charity for others.\(^{281}\) At first glance, there is certainly nothing spectacular about this article, however, what is unusual is that the man's name was Lee Guey and he was an un-naturalized Chinese.\(^{282}\) Obviously, Lee learned enough Anglo customs to succeed as a restaurant owner in Nevada.. Indeed, his story is not unique; millions of other immigrants, of all nationalities, did the same. Instead, Lee's obituary illuminates the fallacy of the central nativist argument against immigration, which was that

\(^{281}\) *Battle Mountain Scout* (Battle Mountain, NV), "A Good Citizen Crosses the Divide," January 27, 1924.

\(^{282}\) Ibid.
foreigners could not assimilate unless that shared a similar Anglo Protestant background as the country’s founding fathers. Unfortunately, white nativists chose to ignore this fact.

Socially, the United States was a nation in flux at the turn of the twentieth century. Richard Hofstadter argues that this was due to the widespread industrialization and urbanization of the period as well as the introduction of masses of immigrants from other cultures. The response of the growing Anglo middle-class and the declining number of farmers to these disruptions in their lifestyles was to look to the past in search of the prefect social order that they believed existed under eighteenth century Jeffersonian ideals. For this study though, the agrarian myth and its attendant heroic yeoman farmers, are not important. Instead, the ideal of a return to a simpler time that they represented in the people’s collective memory was.

According to Matthew Frye Jacobson, America’s Anglo-Saxons of the late nineteenth and early twentieth centuries wanted to return to a period when they were firmly in control of the nation’s political institutions. He notes that the rise of the political machine in the 1840s coincided with the arrival of the Irish, the first large group of immigrants who were not Protestant. This allowed party bosses who were Catholic to gain control of municipal governments and influence state elections, which created a direct threat to the traditional power base of the native upper and middle classes. Anglo-Saxons fought back against the strength of the machines in the late-1880s with settlement house projects and increased public education to teach these new immigrants American values. In addition, Jacobson argues that racism tainted this reform movement because at its core lay the

---

belief that those immigrants from outside of northern Europe could not assimilate and were unfit to govern because they were inferior beings.\textsuperscript{284} Clearly then, at least to nativist American minds at the turn of the twentieth century, a policy of unrestricted immigration posed a threat to the existing social order and had to be stopped.

As far as the question of immigration was concerned, Robert H. Wiebe contends that the political leaders of the Anglo Protestant tradition applied a blend of old and new tactics simultaneously — exclusion and assimilation.\textsuperscript{285} Indeed, the evidence for this argument lies in the historical record. The creation of Chinese exclusionary legislation and the “Asiatic Barred Zone” demonstrated that white society made a distinction between the immigrants it would tolerate, Asians versus all other nationalities. Attempts at assimilation occurred through public education campaigns like that in Nevada, which taught American history and values.

Between the two, exclusion held the advantage since it allowed the pseudo science of eugenics to make the categorization of immigrant groups easy and expandable at will.\textsuperscript{286} In addition, it provided a quick fix to the problem that presented a permanent solution. On the other hand, assimilation took time and the unrestricted nature of immigration assured that it could never be truly successful.\textsuperscript{287} It also drained the scant financial

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{284} Matthew Frye Jacobson, \textit{Barbarian Virtues: The United States Encounters Foreign Peoples at Home and Abroad, 1876-1917} (New York: Hill and Wang, 2000), 182-93.
\item \textsuperscript{286} Ibid.
\item \textsuperscript{287} Ibid., 157.
\end{itemize}
\end{footnotesize}

102

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resources of charitable organizations, states, and the federal government.

It should come as no surprise then that Congress adopted the policy of exclusion as its final decision on the immigrant issue. In 1921, it passed a temporary immigration law to limit the flow of immigration. Quotas based on 3 percent of the nationality of the foreign-born population living in the United States in 1910 reduced the number of immigrants to 350,000 per year. Naturally, the plan favored northern Europeans. Still, this law was not harsh enough, since too many people from southern and eastern Europe managed to enter the county under its provisions.\(^{288}\)

The only notable opposition to the immigration laws of 1921 and 1924 came from big business and Western commercial agriculture interests that needed the masses of unskilled labor that immigration supplied. A short depression gripped the country from 1920 to 1922; when it ended unemployment shrank and employers had to increase wages sharply in order to retain their employees. The National Association of Manufactures mounted a powerful lobbying campaign in the Senate to end restrictive immigration policies. In the end, this effort failed, although it did delay Congresses final decision to restrict immigration for two years.\(^{289}\)

The passage of the next immigration law in 1924 placed a strict cap on all immigrants because it assigned a national quota to all nations, except those in Central and South America, based on the 1890 census. The new law limited immigrants to 2 percent of the


foreign-born population present in America that year.\footnote{Friedman, \textit{American Law}, 129.} In effect, this limited immigration to 150,000 persons per year or roughly 15 percent of the annual level prior to World War I.\footnote{Mae M. Ngai, “The Strange Career of the Illegal Alien: Immigration Restriction and Deportation Policy in the United States,” \textit{Law and History Review} 21, no. 1 (spring 2003): 75. http://www.lexis-nexis.com/.} Conveniently, this was the last decade before the massive waves of immigration from southern and eastern Europe began. Again, northern Europeans got preferential treatment and received two-thirds of the available quota.\footnote{Friedman, \textit{American Law}, 129.}

The anti-Japanese agitation of the American West was only a small part of the larger nativist scheme to scrap the national policy of unrestricted immigration. It added another component of unease over the immigration issue to the nativist mind. Industrialization created a demand for large supplies of cheap labor. This in turn concentrated immigrants in urban areas where the industrial jobs were. It also allowed new immigrants to cluster together in neighborhoods, like New York City’s “Little Italy,” Chicago’s “ Packing town,” or San Francisco’s “Chinatown.” To Anglo Americans looking in, it appeared that assimilation was impossible under these conditions. A far simpler method was exclusion, especially when this allowed the immigration of Anglo-Saxons to continue.

Interestingly, the Immigration Act of 1924 increased the number of deportations from the country by removing the statute of limitations on deportation for illegal entry. This in turn, created a new form of legal thought toward immigrants when Congress passed another law in 1929 that made illegal entry into America a crime. The act established criminal sanctions against immigrants that entered the United States without proper
documentation. A first offense was punishable as a misdemeanor and could result in a one-year prison sentence and/or a thousand dollar fine. The law considered second offenders felons who might face up to two years of incarnation and/or a two thousand dollar fine. Thus, in the eyes of the law, immigrants were now either legal or illegal.

Previously, undocumented entry into the United States was illegal but deportation proceedings against immigrants were simply civil proceedings. The new concerns over which immigrants were legal or illegal led to the initiation of political policies and bureaucratic agencies to differentiate between the two. As Ngai has shown, these contributed to the development of the modern administrative state as evidenced by the transformation of the Bureau of Immigration into a powerful centralized bureaucracy that exists today as the Immigration and Naturalization Service and its attendant enforcement agency, the Border Patrol.293

In the West, the 1924 Immigration Act represented the capstone of the anti-Japanese movement. After more than thirty years of anti-Japanese agitation, the act marked the end to Japanese immigration. More importantly, unlike the ineligible alien land laws that numerous states adopted, the Immigration Act worked. Until 1965, the racially motivated national origin quotas determined American immigration policy.

Once Japanese immigration stopped, the Western hysteria over their presence in Anglo society subsided. Certainly, between 1924 and 1941, many Japanese experienced prejudice and discrimination on a daily basis. Yet, like Mr. Lee before them, they were slowly assimilating into American culture in their own way.

The alien land laws also help to explain the rationale behind the Japanese internment

during the Second World War. The Supreme Court upheld the legality of alien land laws on five separate occasions.\(^{294}\) This, according to Keith Aoki, represented a "systematic and institutionalized racism" designed to strip the Japanese of their civil rights based on their ethnicity.\(^{295}\) Once accomplished, this reinforced the belief that the Japanese were a foreign body living within the dominant Anglo society and they became "members of a class less than worthy" of even the slightest protections of the rule of law.\(^{296}\) This perception justified the internment of the Japanese as an enemy race ineligible for citizenship or its privileges.

---


Table 1.
Chinese Arrivals in the United States, 1852-1884.297

<table>
<thead>
<tr>
<th>Year</th>
<th>Immigration Commission</th>
<th>Bureau of Immigration</th>
<th>San Francisco Customs House</th>
</tr>
</thead>
<tbody>
<tr>
<td>1852</td>
<td>0</td>
<td>0</td>
<td>20,026</td>
</tr>
<tr>
<td>1853</td>
<td>42</td>
<td>42</td>
<td>4,207</td>
</tr>
<tr>
<td>1854</td>
<td>13,100</td>
<td>13,100</td>
<td>16,084</td>
</tr>
<tr>
<td>1855</td>
<td>3,526</td>
<td>3,526</td>
<td>3,329</td>
</tr>
<tr>
<td>1856</td>
<td>4,733</td>
<td>4,733</td>
<td>4,807</td>
</tr>
<tr>
<td>1857</td>
<td>5,944</td>
<td>2,580</td>
<td>5,924</td>
</tr>
<tr>
<td>1858</td>
<td>5,128</td>
<td>7,183</td>
<td>5,427</td>
</tr>
<tr>
<td>1859</td>
<td>3,547</td>
<td>3,215</td>
<td>3,175</td>
</tr>
<tr>
<td>1860</td>
<td>5,467</td>
<td>6,117</td>
<td>7,341</td>
</tr>
<tr>
<td>1861</td>
<td>7,518</td>
<td>6,094</td>
<td>8,430</td>
</tr>
<tr>
<td>1862</td>
<td>3,633</td>
<td>4,174</td>
<td>8,175</td>
</tr>
<tr>
<td>1863</td>
<td>7,214</td>
<td>5,280</td>
<td>6,432</td>
</tr>
<tr>
<td>1864</td>
<td>2,975</td>
<td>5,240</td>
<td>2,682</td>
</tr>
<tr>
<td>1865</td>
<td>2,942</td>
<td>3,702</td>
<td>3,095</td>
</tr>
<tr>
<td>1866</td>
<td>2,385</td>
<td>1,872</td>
<td>2,242</td>
</tr>
<tr>
<td>1867</td>
<td>3,863</td>
<td>3,519</td>
<td>4,290</td>
</tr>
<tr>
<td>1868</td>
<td>5,157</td>
<td>6,707</td>
<td>11,081</td>
</tr>
<tr>
<td>1869</td>
<td>12,874</td>
<td>12,874</td>
<td>14,990</td>
</tr>
<tr>
<td>1870</td>
<td>15,740</td>
<td>15,740</td>
<td>10,870</td>
</tr>
<tr>
<td>1871</td>
<td>7,135</td>
<td>7,135</td>
<td>5,540</td>
</tr>
<tr>
<td>1872</td>
<td>7,788</td>
<td>7,788</td>
<td>9,770</td>
</tr>
<tr>
<td>1873</td>
<td>20,292</td>
<td>20,291</td>
<td>17,075</td>
</tr>
<tr>
<td>1874</td>
<td>13,776</td>
<td>13,776</td>
<td>16,085</td>
</tr>
<tr>
<td>1875</td>
<td>16,437</td>
<td>16,437</td>
<td>18,021</td>
</tr>
<tr>
<td>1876</td>
<td>22,781</td>
<td>22,781</td>
<td>15,481</td>
</tr>
<tr>
<td>1877</td>
<td>10,594</td>
<td>10,594</td>
<td>9,468</td>
</tr>
<tr>
<td>1878</td>
<td>8,992</td>
<td>8,992</td>
<td>6,675</td>
</tr>
<tr>
<td>1879</td>
<td>9,604</td>
<td>9,604</td>
<td>6,969</td>
</tr>
<tr>
<td>1880</td>
<td>5,802</td>
<td>5,802</td>
<td>5,050</td>
</tr>
<tr>
<td>1881</td>
<td>11,890</td>
<td>11,890</td>
<td>18,561</td>
</tr>
<tr>
<td>1882</td>
<td>39,579</td>
<td>39,579</td>
<td>26,902</td>
</tr>
<tr>
<td>1883</td>
<td>8,031</td>
<td>8,031</td>
<td>***</td>
</tr>
<tr>
<td>1884</td>
<td>279</td>
<td>4,009</td>
<td>***</td>
</tr>
</tbody>
</table>

Table 2.
Previous occupations of Japanese immigrants to the United States, 1901-1909.

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Number</th>
<th>Professional</th>
<th>Merchants, Grocers, and Bakers</th>
<th>Farmers</th>
<th>Farm Laborers</th>
<th>Skilled Laborers</th>
<th>Laborers</th>
<th>Personal and Domestic Service</th>
<th>Other Occupations</th>
<th>Without Occupations</th>
</tr>
</thead>
<tbody>
<tr>
<td>1901</td>
<td>5,249</td>
<td>167</td>
<td>660</td>
<td>897</td>
<td>1,153</td>
<td>603</td>
<td>830</td>
<td>181</td>
<td>173</td>
<td>585</td>
</tr>
<tr>
<td>1902</td>
<td>14,455</td>
<td>222</td>
<td>1,211</td>
<td>5,212</td>
<td>451</td>
<td>1,047</td>
<td>1,558</td>
<td>173</td>
<td>193</td>
<td>4,388</td>
</tr>
<tr>
<td>1903</td>
<td>20,041</td>
<td>274</td>
<td>1,445</td>
<td>5,010</td>
<td>5,816</td>
<td>922</td>
<td>572</td>
<td>132</td>
<td>588</td>
<td>5,282</td>
</tr>
<tr>
<td>1904</td>
<td>14,382</td>
<td>372</td>
<td>1,189</td>
<td>121</td>
<td>6,775</td>
<td>641</td>
<td>1,474</td>
<td>317</td>
<td>248</td>
<td>3,244</td>
</tr>
<tr>
<td>1905</td>
<td>11,021</td>
<td>280</td>
<td>791</td>
<td>380</td>
<td>5,883</td>
<td>358</td>
<td>743</td>
<td>207</td>
<td>167</td>
<td>2,212</td>
</tr>
<tr>
<td>1906</td>
<td>14,243</td>
<td>256</td>
<td>649</td>
<td>522</td>
<td>8,435</td>
<td>329</td>
<td>835</td>
<td>195</td>
<td>567</td>
<td>2,446</td>
</tr>
<tr>
<td>1907</td>
<td>30,824</td>
<td>610</td>
<td>783</td>
<td>817</td>
<td>20,636</td>
<td>546</td>
<td>1,334</td>
<td>166</td>
<td>2,174</td>
<td>3,855</td>
</tr>
<tr>
<td>1908</td>
<td>16,418</td>
<td>378</td>
<td>687</td>
<td>378</td>
<td>6,766</td>
<td>457</td>
<td>1,144</td>
<td>284</td>
<td>1,742</td>
<td>4,582</td>
</tr>
<tr>
<td>1909</td>
<td>3,275</td>
<td>139</td>
<td>108</td>
<td>15</td>
<td>628</td>
<td>85</td>
<td>200</td>
<td>67</td>
<td>268</td>
<td>1,765</td>
</tr>
<tr>
<td>Total</td>
<td>129,908</td>
<td>2,699</td>
<td>7,523</td>
<td>13,352</td>
<td>56,543</td>
<td>4,988</td>
<td>8,690</td>
<td>6,129</td>
<td>6,129</td>
<td>28,359</td>
</tr>
<tr>
<td>Percentage</td>
<td>100</td>
<td>2.1</td>
<td>5.8</td>
<td>10.3</td>
<td>43.5</td>
<td>3.8</td>
<td>6.7</td>
<td>1.3</td>
<td>4.7</td>
<td>21.8</td>
</tr>
</tbody>
</table>

Note: Women and children immigrants of Japanese descent are also included in the Without Occupations category. 299

298 Millis, Japanese Problem, 6.

299 Ibid., 7.
Table 3.
Yearly Number of Japanese Immigrants to the United States, 1869-1914.\textsuperscript{300}

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Japanese Immigrants</th>
<th>Number of Total Immigrants</th>
</tr>
</thead>
<tbody>
<tr>
<td>1869</td>
<td>63</td>
<td>352,000</td>
</tr>
<tr>
<td>1870</td>
<td>48</td>
<td>387,000</td>
</tr>
<tr>
<td>1871</td>
<td>78</td>
<td>321,000</td>
</tr>
<tr>
<td>1872</td>
<td>17</td>
<td>404,000</td>
</tr>
<tr>
<td>1873</td>
<td>9</td>
<td>459,000</td>
</tr>
<tr>
<td>1874</td>
<td>21</td>
<td>313,000</td>
</tr>
<tr>
<td>1875</td>
<td>3</td>
<td>227,000</td>
</tr>
<tr>
<td>1876</td>
<td>4</td>
<td>169,000</td>
</tr>
<tr>
<td>1877</td>
<td>7</td>
<td>141,000</td>
</tr>
<tr>
<td>1878</td>
<td>2</td>
<td>138,000</td>
</tr>
<tr>
<td>1879</td>
<td>4</td>
<td>177,000</td>
</tr>
<tr>
<td>1880</td>
<td>4</td>
<td>457,000</td>
</tr>
<tr>
<td>1881</td>
<td>11</td>
<td>669,000</td>
</tr>
<tr>
<td>1882</td>
<td>5</td>
<td>788,000</td>
</tr>
<tr>
<td>1883</td>
<td>27</td>
<td>603,000</td>
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<tr>
<td>1884</td>
<td>20</td>
<td>518,000</td>
</tr>
<tr>
<td>1885</td>
<td>49</td>
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<tr>
<td>1886</td>
<td>194</td>
<td>334,000</td>
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<td>1887</td>
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<td>490,000</td>
</tr>
<tr>
<td>1888</td>
<td>404</td>
<td>546,000</td>
</tr>
<tr>
<td>1889</td>
<td>640</td>
<td>444,000</td>
</tr>
<tr>
<td>1890</td>
<td>691</td>
<td>455,000</td>
</tr>
<tr>
<td>1891</td>
<td>1,136</td>
<td>560,000</td>
</tr>
<tr>
<td>1892</td>
<td>1,498</td>
<td>579,000</td>
</tr>
<tr>
<td>1893</td>
<td>1,380</td>
<td>439,000</td>
</tr>
<tr>
<td>1894</td>
<td>1,931</td>
<td>285,000</td>
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<td>1895</td>
<td>1,150</td>
<td>258,000</td>
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<td>1896</td>
<td>1,110</td>
<td>343,000</td>
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<td>1897</td>
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<td>1898</td>
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<td>1899</td>
<td>3,395</td>
<td>311,000</td>
</tr>
<tr>
<td>1900</td>
<td>12,626</td>
<td>448,000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year</th>
<th>Value 1</th>
<th>Value 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1901</td>
<td>4,908</td>
<td>487,000</td>
</tr>
<tr>
<td>1902</td>
<td>5,325</td>
<td>648,000</td>
</tr>
<tr>
<td>1903</td>
<td>6,990</td>
<td>857,000</td>
</tr>
<tr>
<td>1904</td>
<td>7,771</td>
<td>812,000</td>
</tr>
<tr>
<td>1905</td>
<td>4,319</td>
<td>1,026,000</td>
</tr>
<tr>
<td>1906</td>
<td>5,178</td>
<td>1,100,000</td>
</tr>
<tr>
<td>1907</td>
<td>9,948</td>
<td>1,285,000</td>
</tr>
<tr>
<td>1908</td>
<td>7,250</td>
<td>782,000</td>
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<tr>
<td>1909</td>
<td>1,593</td>
<td>751,000</td>
</tr>
<tr>
<td>1910</td>
<td>1,552</td>
<td>1,041,000</td>
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<tr>
<td>1911</td>
<td>4,282</td>
<td>873,000</td>
</tr>
<tr>
<td>1912</td>
<td>5,358</td>
<td>838,172</td>
</tr>
<tr>
<td>1913</td>
<td>6,771</td>
<td>1,197,892</td>
</tr>
<tr>
<td>1914</td>
<td>8,462</td>
<td>1,218,480</td>
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</table>
Table 4.
Japanese and Total Immigration to the United States, by Decade.301

<table>
<thead>
<tr>
<th>Decade</th>
<th>Total Immigration</th>
<th>Japanese Immigration</th>
<th>Japanese as Percent of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1861-70</td>
<td>2,314,842</td>
<td>186</td>
<td>0.01%</td>
</tr>
<tr>
<td>1871-80</td>
<td>2,812,191</td>
<td>149</td>
<td>0.01</td>
</tr>
<tr>
<td>1881-90</td>
<td>5,246,613</td>
<td>2,270</td>
<td>0.04</td>
</tr>
<tr>
<td>1891-1900</td>
<td>3,678,564</td>
<td>25,942</td>
<td>0.70</td>
</tr>
<tr>
<td>1901-10</td>
<td>8,795,386</td>
<td>129,797</td>
<td>1.48</td>
</tr>
<tr>
<td>1911-20</td>
<td>5,735,811</td>
<td>83,837</td>
<td>1.46</td>
</tr>
<tr>
<td>1921-30</td>
<td>4,107,209</td>
<td>33,462</td>
<td>0.81</td>
</tr>
<tr>
<td>1931-40</td>
<td>528,431</td>
<td>1,948</td>
<td>0.37</td>
</tr>
</tbody>
</table>

Table 5.
Population of Chinese and Japanese in the United States, by Decade, 1870-1930.302

<table>
<thead>
<tr>
<th>Decade</th>
<th>Chinese</th>
<th>Japanese</th>
</tr>
</thead>
<tbody>
<tr>
<td>1870</td>
<td>63,199</td>
<td>55</td>
</tr>
<tr>
<td>1880</td>
<td>105,465</td>
<td>148</td>
</tr>
<tr>
<td>1890</td>
<td>107,488</td>
<td>2,039</td>
</tr>
<tr>
<td>1900</td>
<td>89,863</td>
<td>24,326</td>
</tr>
<tr>
<td>1910</td>
<td>71,531</td>
<td>72,157</td>
</tr>
<tr>
<td>1920</td>
<td>61,639</td>
<td>111,010</td>
</tr>
<tr>
<td>1930</td>
<td>74,954</td>
<td>138,834</td>
</tr>
</tbody>
</table>


Table 6.
Comparison of Economic Success of the Japanese with Other Ethnic Farmers.\(^{303}\)

<table>
<thead>
<tr>
<th>Race</th>
<th>Number Reporting</th>
<th>Average Surplus</th>
<th>Number Reporting</th>
<th>Surplus Average Amount</th>
<th>Number Reporting</th>
<th>Deficit Average Amount</th>
<th>Number with Neither Surplus or Deficit</th>
</tr>
</thead>
<tbody>
<tr>
<td>American</td>
<td>18</td>
<td>$1,091.06</td>
<td>15</td>
<td>$1,309.27</td>
<td>-</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>German-Russian</td>
<td>19</td>
<td>1,168.16</td>
<td>19</td>
<td>1,168.16</td>
<td>-</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Italian</td>
<td>67</td>
<td>560.33</td>
<td>57</td>
<td>659.68</td>
<td>1</td>
<td>60.00</td>
<td>9</td>
</tr>
<tr>
<td>Japanese</td>
<td>647</td>
<td>288.34</td>
<td>432</td>
<td>579.88</td>
<td>114</td>
<td>561.00</td>
<td>101</td>
</tr>
<tr>
<td>Portuguese</td>
<td>36</td>
<td>469.67</td>
<td>28</td>
<td>688.39</td>
<td>1</td>
<td>2,500.00</td>
<td>7</td>
</tr>
<tr>
<td>Scandinavian and German</td>
<td>21</td>
<td>771.43</td>
<td>15</td>
<td>1,093.33</td>
<td>1</td>
<td>200.00</td>
<td>5</td>
</tr>
</tbody>
</table>

Table 7.
Population of Japanese and Chinese in Select States, 1890-1920.\textsuperscript{304}

<table>
<thead>
<tr>
<th>Year</th>
<th>1890</th>
<th>1900</th>
<th>1910</th>
<th>1920</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arizona</td>
<td>1,170</td>
<td>1</td>
<td>1,419</td>
<td>281</td>
</tr>
<tr>
<td>California</td>
<td>72,472</td>
<td>1,147</td>
<td>45,753</td>
<td>10,151</td>
</tr>
<tr>
<td>Colorado</td>
<td>1,398</td>
<td>10</td>
<td>599</td>
<td>48</td>
</tr>
<tr>
<td>Nevada</td>
<td>2,833</td>
<td>3</td>
<td>1,352</td>
<td>228</td>
</tr>
<tr>
<td>Oregon</td>
<td>9,540</td>
<td>25</td>
<td>10,397</td>
<td>2,501</td>
</tr>
<tr>
<td>Washington</td>
<td>3260</td>
<td>360</td>
<td>3,629</td>
<td>5,617</td>
</tr>
<tr>
<td>Wyoming</td>
<td>465</td>
<td>0</td>
<td>461</td>
<td>393</td>
</tr>
</tbody>
</table>

APPENDIX A

CHINESE PROSTITUTE CONTRACT

An Agreement [sic] to assist the woman Ah Ho, because coming from China to San Francisco she became indebted to her mistress for passage. Ah Ho herself asks Mr. Yee Kwan to advance her six hundred and thirty dollars, for which Ah Ho distinctly agrees to give her body to Mr. Yee for service as a prostitute for a term of four years. There shall be no interest on the money. Ah Ho shall receive no wages. At the expiration of four years Ah Ho shall be her own master. Mr. Yee Kwan shall not hinder nor trouble her. If Ah Ho runs away before her time is out, her mistress shall find her and return her, and whatever expense is incurred in finding and returning her, Ah Ho shall pay. On this day of agreement Ah Ho with her own hands has received from Mr. Yee Kwan six hundred and thirty dollars. If Ah Ho shall be sick at any time for more than ten days, she shall make up an extra month of service for every ten days of sickness. Now this agreement has proof. This paper received by Ah Ho is witness.

Tung Chee

Twelfth Year, Ninth Month, and Fourteenth Day (October 1873).

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APPENDIX B

BURLINGAME—SEWARD TREATY OF 1868

ARTICLE V

The United States of America and the Emperor of China cordially recognize the inherent and inalienable right of man to change his home and allegiance, and also the mutual advantage of the free migration and immigration of their citizens and subjects respectively from the one country to the other, for purposes of curiosity, of trade, or as a permanent residents. The high contracting parties, therefore, join in reprobating any other than an entirely voluntary emigration for these purposes. They consequently agree to pass laws making it a penal offense for a citizen of the United States or Chinese subjects to take Chinese subjects either to the United States or to any other foreign country, without their free and voluntary consent respectively.306

306 “Additional Articles to the Treaty Between the Unites States and China, of June 18, 1858,” vol. 16, Statutes at Large of the United States of America, 1789-1873, (Washington, D. C., 1871), 740.
APPENDIX C

ANTI-JAPANESE RESOLUTIONS FROM FALLON, NEVADA, 1920

Churchill County Commercial Club
Fallon, Nevada

January Twentieth
Nineteen Twenty

Governor Emmett D. Boyle
Carson City, Nevada

My Dear Governor: Enclosed herewith is a copy of Resolutions passed by the Churchill County Commercial Club at its last regular meeting held on the 19th. Of this present month.

The writer was instructed to submit these resolutions to your Honor and urge upon you the imperative need of such legislation as that outlined in the resolutions.

To further urge that you include in your message to the coming Special Session of the state Legislature, such recommendations, looking to the enactment of such laws that will adequately protect the interests of American citizens from the encroachment of the Asiatics, before we wake up and find ourselves in the same condition as our sister state on the west.307

Yours Very Truly

CHURCHILL COUNTY COMMERCIAL CLUB

W. R. Davis

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RESOLUTIONS PASSED BY CHURCHILL COMMERCIAL CLUB. Jan. 19, 1920

WHEREAS recent study of the Japanese question in this state and in California has convinced us of the evils from continued Japanese immigration; and

WHEREAS we realize that if this condition is permitted to continue it will inevitably lead to the absorbing of communities and industries in this county by the Japanese; and

WHEREAS we further realize that the high birthrate and unassimilatable character of the Japanese give rise to an economic competition against which the white race is helpless; and

WHEREAS this condition can be checked to a great extent by appropriate state legislation; and

WHEREAS we have sufficient information concerning this question to justify us in calling upon proper state officials for the immediate enactment of such legislation as may be required;

NOW, therefore, be it resolved by the CHURCHILL COUNTY COMMERCIAL CLUB that we do hereby call upon the Governor of this state to convene a special session of the legislature forwith [sic] to consider and act upon measures seeking to remedy the conditions above mentioned; a

BE it further resolved that we do call upon our Senators and Representatives in [the] Congress of the United States to co-operate in every way possible with state officials of Nevada and California and with all other members of Congress in enacting such state and federal legislation as may be deemed necessary to meet the present situation; and that in this connection we submit that the following federal legislation in necessary in aide of state legislation; (1) Cancellation of the "Gentleman’s Agreement;" (2) Exclusion of "Picture Brides;" (3) Rigorous exclusion of Japanese as immigrants; (4) Conformation and legalization of the policy that Asiatics shall forever be barred from American citizenship; and (5) amendment of Section 1 of Article XIV of the Constitution of the United States so as to provide that no child born in the United States of foreign parents shall be considered as or be an American citizen unless both parents of such child are of a race eligible for citizenship. 308

RESOLUTION PASSED BY CHURCHILL POST NO 16 AMERICAN LEGION OF NEVADA JAN 13 1920 WHEREAS THE MEMBERS OF THE CHURCHILL POST NO 16 OF THE AMERICAN LEGION ARE KEENLY ALIVE TO THE JAPANESE MENACE ON THE PACIFIC COAST AND MORE ESPECIALLY IN THE STATES OF CALIFORNIA AND NEVADA AND WHEREAS WE FIRMLY BELIEVE THAT THE EVER INCREASING INFLUX OF JAPANESE INTO THE STATE OF NEVADA WILL EVENTUALLY RESULT IN THE DOMINATION OF OUR INDUSTRIES AND THE SUBJECTION OF OUR COMMUNITIES BY A RACE NOT CAPABLE OF ASSIMILATION BY THE WHITE RACE AND WHEREAS THESE FACTS ARE NOT MERE CONJECTURES BUT ARE SUBSTANTIATED [sic] BY THE EXPERIENCE OF OUR NEIGHBOR STATE OF CALIFORNIA AS WELL AS BY INFORMATION COMMUNICATED TO US BY MANY OF THE LEGION MEMBERS WHO HAVE RECENTLY SEEN SERVICE IN SIBERIA AND WHEREAS WE BELIEVE THAT IMMEDIATE STEPS MUST BE TAKEN TO PROVIDE STATE AND NATIONAL LEGISLATION ADEQUATE TO CURB THIS IMPENDING MENACE AND WHEREAS FURTHERMORE WE BELIEVE IN AMERICANISM WHICH MEANS AMERICA FOR AMERICANS BE IT THEREFORE RESOLVED BY THE CHURCHILL POST NO 16 OF THE AMERICAN LEGION OF NEVADA THAT WE DEMAND OF THE GOVERNOR OF THE STATE OF NEVADA THAT HE CONVENE A SPECIAL SESSION OF THE LEGISLATURE FOR THE PURPOSE OF ENACTING SUCH ADEQUATE LEGISLATION BE IT FURTHER RESOLVED THAT WE DEMAND OF OUR CONGRESSMEN AND REPRESENTATIVES THAT THEY GIVE THIS MATTER IMMEDIATE AND THOUGHTFUL CONSIDERATION AND TO ALL IN THEIR POWER TO FOSTER PROPER REMEDIAL NATIONAL LEGISLATION BE IT FURTHER RESOLVED THAT COPIES OF THIS RESOLUTION BE FORWARDED TO EVERY AMERICAN LEGION POST IN THE STATE OF NEVADA WITH THE EARNEST SOLICITATION THAT EACH POST TAKE IMMEDIATE SIMILAR ACTION IN THE PREMISES SET FORTH IN THIS RESOLUTION.309

309 Telegram from American Legion Post 16 to Emmett Boyle, January 24, 1920, Gov-0028 #44, Boyle Papers, Japanese Immigration File, Nevada State Library and Archives, Carson City, Nevada.
WESTERN UNION TELEGRAM

14SF RM 154 3EX

FALLON NEV 1015A JAN 27 1920

HON EMMET [sic] D BOYLE,
CARSON CITY, NEVADA.

THE COMMERCIAL CLUB EARNESTLY RENEWS ITS REQUEST THAT YOU INCLUDE THE MATTER OF ALIEN LAND OWNERSHIP IN YOUR CALL FOR SPECIAL SESSION OF LEGISLATURE EVEN SUCH CALL MUST BE POSTPONED FOR FIFTEEN DAYS IN WHICH TIME PROPER REPRESENTATION WILL BE MADE TO YOU SHOWING URGENCY OF SUCH LEGISLATION ONLY ASK FOR PREVENTATIVE LAWS ON THE SUBJECT WITH FULL REGARD TO TREATY OBLIGATIONS BUT IT WE MUST WAIT TILL REGULAR SESSION THE JAPANESE WILL BE ESTABLISHED HERE AND THE MATTER WILL DEMAND RADICAL LEGISLATION CALIFORNIA IS DRIVING THEM OUT AND WE ARE BEING MADE THE DUMPING GROUND SHE HAS LAWS THAT WERE PASSED TOO LATE BUT HER BITTER EXPERIENCE IS AN OBJECT LESSON TO US THIS LEGISLATION IS REQUESTED BY THE FARM BUREAU AND THE AMERICAN LEGION IF NECESSARY OUR PEOPLE WILL GLADLY DONATE ONE THOUSAND DOLLARS TO DEFRAY LEGISLATIVE EXPENSES IF THIS JAPANESE MATTER IS INCLUDED IN YOUR CALL.  

G J KENNY
CHAIRMAN OF COMMITTEE

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APPENDIX D

"INELIGIBLE ALIEN" LAND LAWS, CALIFORNIA

FIRST CALIFORNIA INELIGIBLE ALIEN LAND LAW, 1913

STATUTES OF CALIFORNIA

CHAPTER 113

An act relating to the rights, powers and disabilities of aliens and of certain companies, associations and corporations with respect to property in this state, providing for escheats in certain cases, prescribing the procedure therein, and repealing all acts or parts of acts inconsistent or in conflict herewith.

(Approved May 19, 1913. In effect August 10, 1913.)

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

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

SEC. 2. All aliens other than those mentioned in section one of this act may acquire, possess, enjoy and transfer real property, or any interest therein, in this state, in the manner and to the extent and for the purposes prescribed by any treaty now existing between the of the United States and the nation or country of which such alien is a citizen or subject, and not otherwise, and may in addition thereto lease lands in this state for agricultural purposes for a term not exceeding three years.

SEC. 3. Any company, association or corporation organized under the laws of this or any other state or nation, of which a majority of the members are aliens other than those specified in section one of this act, or in which a majority of the issued capital stock is owned by such aliens, may acquire, possess, enjoy and convey real property, or any interest therein, in this state, in the manner and to the extent and for the purposes prescribed by any treaty now existing between the government of the United States and the nation or country of which such members or stockholders are citizens of subjects, and
not otherwise, and may in addition thereto lease lands in this state for agricultural purposes for a term not exceeding three years.

SEC. 4. Whenever it appears to the court in any probate proceeding that by reason of the provisions of this act any heir or devisee cannot take real property in this state which, but for said provisions, said heir or devisee would take as such, the court, instead of ordering a distribution of such real property to such heir or devisee, shall order a sale of said real property to be made in the manner provided by law for probate sales of real property, and the proceeds of such sale shall be distributed to such heir or devisee in lieu of such real property.

SEC. 5. Any real property hereafter acquired in fee in violation of the provisions of this act by any alien mentioned in section two of this act, or by any company, association or corporation mentioned in section three of this act, shall escheat to, and become and remain the property of the State of California. The attorney general shall institute proceedings to have the escheat of such real property adjudged and enforced in the manner provided by section 474 of the Political Code and title eight, part three of the Code of Civil Procedure. Upon the entry of final judgment in such proceedings, the title to such real property shall pass to the State of California. The provisions of this section and of sections two and three of this act shall not apply to any real property hereafter acquired in the enforcement or in satisfaction if any lien now existing upon, or interest in such property, so long as such real property so acquired shall remain the property of the alien company, association or corporation acquiring the same in such manner.

SEC. 6. Any leasehold or other interest in real property less than the fee, hereafter acquired in violation of the provisions of this act by any alien mentioned in section two of this act, or by any company, association or corporation mentioned in section three of this act, shall escheat to the State of California. The attorney general shall institute proceedings to have such escheat adjudge the value of such leasehold, or other interest in such real property, and enter judgment for the state for the amount thereof together with costs. Thereupon the court shall order a sale of the real property covered by such leasehold, or other interest, in the manner provided by section 1271 of the Code of Civil Procedure. Out of the proceeds arising from such sale, the amount of the judgment rendered for the state shall be paid into the state treasury and the balance shall be deposited with and distributed by the court in accordance with the interest of the parties therein.

SEC. 7. Nothing in this act shall be construed as a limitation upon the power of the state to enact laws with respect to the acquisition, holding or disposal by aliens of real property in this state.
SEC. 8. All acts and parts of acts inconsistent, or in conflict with the provisions of this act, are hereby repealed.\textsuperscript{311}

\textsuperscript{311} California Legislature, Statutes of California and Amendments to the Codes Passed at the Fortieth Session of the Legislature, 1913 (San Francisco: Bancroft-Whitney Co., 1913), 206-08.
SECOND CALIFORNIA INELIGIBLE ALIEN LAND LAW, 1920

PROPOSITIONS SUBMITTED TO VOTE OF ELECTORS

GENERAL ELECTION NOVEMBER 2, 1920.

MEASURES ADOPTED.

INITIATIVE MEASURES.

1. Alien Land Law.

An act relating to the rights, powers and disabilities of aliens and of certain companies, associations and corporations with respect to property in this state, providing for enclaves in certain cases, prescribing the procedure therein, requiring reports of certain property holdings to facilitate the enforcement of this act, prescribing penalties for violation of the provisions herein, and repealing all acts or parts of acts inconsistent or in conflict herewith.

[Submitted by the initiative measure and approved by electors November 2, 1920. In effect December 9, 1920.]

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

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

Sec. 2. All aliens other than those mentioned in section one of this act may acquire, possess, enjoy, transmit and inherit real property, or any interest therein, in this state, in the same manner and to the same extent and for the purpose prescribed by any treaty now existing between the government of the United States and the nation or country of which such alien is a citizen or subject, and not otherwise.

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

Sec. 4. Hereafter no alien mentioned in section two hereof and no company,
association of corporation mentioned in section three hereof, may be appointed guardian
of that portion of the estate of a minor which consists of property which such alien or
such company, association or corporation is inhibited from acquiring, possessing,
enjoying or transferring by person of the provisions of this act. The public administrator
of the proper county, or any other competent person or corporation, may be appointed
guardian of the estate of a minor citizen whose parents are ineligible to appointment
under the provisions of this section.

On such notice to the guardian as the court may require, the superior court may
remove the guardian of such an estate whenever it appears to the satisfaction of the
Court;
(a) That the guardian has failed to file the report required by the provisions of
section five hereof; or
(b) That the property of the ward has not been or is not being administrated with due
regard to the primary interest of the ward; or
(c) That facts exist which would make the guardian ineligible to appointment in the
first instance; or
(d) That facts establishing any other legal ground for removal exist.

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

(b) Annually on or before the thirty-first day of January every such trustee must file
in the office of the Secretary of State of California and in the office of the county clerk of
each county in which any of the property is situated, a verified written report showing :
(1) The property, real or personal, held by him for or on behalf of such an alien or
minor;
(2) A statement showing the date when each item of such property came into his
possession or control;
(3) An itemized account of all expenditures, investments, rents, issues and profits in
respect to the administration and control of such property with particular reference to
holdings of corporate stock and leases, cropping contracts and other agreements in
respect to land and the handling of sale of products thereof.

(c) Any person, company, association or corporation that violates any provision of
this section is guilty of a misdemeanor and shall be punished by a fine not exceeding one
thousand dollars or by imprisonment in the county jail not exceeding one year, or by both
such fine and imprisonment.
(d) The provisions of this section are cumulative and are not intended to change the jurisdiction or the rules of practice of courts of justice.

Sec. 6. Whenever it appears to the court in any probate proceeding that by reason of the provisions of this act any heir or devisee cannot take real property in this state or membership or shares of stock in a company, association or corporation which, but for said provisions, said heir or devisee, would take as such, the court, instead of ordering a distribution of such property to such heir or devisee, shall order a sale of said property to be made in the manner provided by law for probate sales of property and the proceeds of such sale shall be distributed to such heir or devisee in lieu of such property.

Sec. 7. Any real property hereafter acquired in fee in violation of the provisions of this act by any alien mentioned in section two of this act, or by any company, association or corporation mentioned in section three of this act, shall escheat to, and become and remain the property of the State of California. The Attorney General or district attorney of the proper county shall institute proceedings to have the escheat of such real property adjusted and enforced in the manner provided by section four hundred seventy-four of the Political Code and title eight, part three of the Code of Civil Procedure. Upon the entry of final judgment in such proceedings, the title of such real property shall pass to the State of California. The provisions of this section and of sections two and three of this act shall not apply to any real property hereafter acquired in the enforcement or in satisfaction of any lien now existing upon, or interest in such property, so long as such real property so acquired shall remain the property of the alien, company, association or corporation mentioned in section two or section three hereof shall hold for a longer period than two years the possession of any agricultural land acquired in the enforcement of or in satisfaction of a mortgage or other lien hereafter made or acquired in good faith to secure a debt.

Sec. 8. Any leasehold or other interest in real property less than the fee, hereafter acquired in violation of the provisions of this act by any alien mentioned in section two of this act, or by any company, association or corporation mentioned in section three of this act, shall escheat to the State of California. The Attorney General or district attorney of the proper county shall institute proceedings to have such escheat adjudged and enforced as provided in section seven of this act. In such proceedings the court shall determine and adjudge the value of such leasehold or other interest in such real property, and other judgment for the state for the amount thereof together with costs. Thereupon the court shall order a sale of the real property covered by such leasehold, or other interest, in the manner provided by section twelve hundred seventy-one of the Code of Civil Procedure. Out of the proceeds arising from such sale, the amount of the judgment rendered for the state shall be paid into the state treasury and the balance shall be deposited with and distributed by the court in accordance with the interest of the parties therein. Any shares of stock or the interest of any member in a company, association or corporation hereafter acquired in violation of the provisions of section three of this act shall escheat to the State of California. Such escheat shall be adjudged and enforced in the same manner as provided in this section for the escheat of a leasehold or other interest in real property less than the fee.
Sec. 9. Every transfer of real property, or of an interest therein, though colorable in form, shall be void as to the state and the interest thereby conveyed or sought shall escheat to the state if the property interest involved is of such a character that an alien mentioned in section two hereof is inhibited from acquiring, possessing, enjoying or transferring it, and if the conveyance is made with intent to prevent, evade or avoid escheat as provided herein.

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

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

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

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

The enumeration in this section of certain presumptions shall not be so constructed as to preclude other presumptions or inferences that reasonably may be made as to the existence of intent to prevent, evade or avoid escheat as provided herein.

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

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

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

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

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

(c) This act in so far as it does not add to, take from or alter an existing law, shall be construed as a continuation thereof.

Sec. 13. The legislature may amend this act in furtherance of its purpose and to facilitate its operation.
Sec. 14. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The people hereby declare that they would have passed this act, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.312

THIRD CALIFORNIA INELIGIBLE ALIEN LAND LAW, 1923

STATUTES OF CALIFORNIA

CHAPTER 441.

An act to amend an act entitled "An act relating to the rights, powers and disabilities of aliens and of certain companies, associations and corporations with respect to property in this state, providing for escheats in certain cases, prescribing the procedure therein, requiring reports of certain property holders to facilitate the enforcement of this act, prescribing penalties for violation of the provisions hereof, and repealing all acts or parts of acts inconsistent or in conflict herewith." submitted by the initiative and adopted and approved by the electors of the State of California, November 2, 1920, by amending sections one, two, three, four, five, seven, eight, nine, ten and eleven thereof.

(Approved June 20, 1923.)

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

SECTION 1. Section one of an act entitled "An act relating to the rights, powers and disabilities of aliens and of certain companies, associations and corporations with respect to property in this state, providing for escheats in certain cases, prescribing the procedure therein, requiring reports of certain property holdings to facilitate the enforcement of this act, prescribing penalties for violation of the provisions hereof, and repealing all acts or parts of acts inconsistent or in conflict herewith." Adopted and approved by the electors of the State of California, November 2, 1920, is hereby amended to read as follows:

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

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

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

SEC. 5. Section five of said act is hereby amended to read as follows:

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

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

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

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

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

SEC. 11. Section eleven of said act is hereby amended to read as follows:

128
real property, or any interest therein, in this state, and have in whole or in part the
beneficial use thereof, in the manner and to the extent and for the purposes prescribed by
any treaty now existing between the government of the United States and the nation or
country of which such members or stockholders are citizens or subjects, and not
otherwise. Hereafter all aliens other than those specified in section one hereof may
become members of or acquire shares of stock in any company, association or
corporation that is or may be authorized to acquire, possess, enjoy, use, cultivate, occupy
and transfer real property, or any interest therein, in this state, in the manner and to the
extent and for the purposes prescribed by any treaty now existing between the
government of the United States and the nation or country of which such an alien is a
citizen or subject, and not otherwise.

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

SEC. 4. Hereafter no alien mentioned in section two hereof and no company,
association or corporation mentioned in section three hereof, may be appointed guardian
of that portion of the estate of a minor which consists of property which such alien is
inhibited from acquiring, possessing, enjoying, using, cultivating, occupying,
transferring, transmitting or inheriting or which such company, association or corporation
is inhibited from acquiring, possessing, enjoying, using, cultivating, occupying or
transferring, by reason of the provisions of this act. The public administrator of the
proper county, or any other competent person or corporation, may be appointed under the
provisions of this section.

On such notice to the guardian as the court may require, the superior court may
remove the guardian of such and estate whenever it appears to the satisfaction of the
court:

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

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

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

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

SEC. 5. Section five of said act is hereby amended to read as follows:

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

(b) Annually of or before the thirty-first day of January every such trustee must file in
the office of the secretary of state of California and in the office of the county clerk of
each county in which any of the property is situated, a verified written report showing:

(1) The property, real or personal, held by him for or on behalf of such alien or minor;
(2) A statement showing the date when each item of such property came into his possession or control;

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

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

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

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

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

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

SEC. 8. Any leasehold or other interest in real property less than the fee, including cropping contracts which are hereby declared to constitute an interest in real property less than the fee, hereafter acquired in violation of the provisions of this act by an alien mentioned in section two of this act, or by any company, association or corporation mentioned in section three of this act, shall escheat to the State of California, as of the date of such acquiring in violation of the provisions of this act. The attorney general or district attorney of the proper county shall institute proceedings to have such escheat adjudged and enforced in the same manner as is provided in section seven of this act. In such proceedings the court shall determine and adjudge the value of such leasehold or other interest in such real property, as of the date of such acquisition in violation of the provisions of this act, and enter judgment for the state for the amount thereof together with costs. The said judgment so entered shall be considered a lien against the real
property in which such leasehold or other interest less than the fee is so acquired in violation of the provisions of this act, which lien shall exist as of the date of such unlawful acquisition. Thereupon the court shall order a sale of the real property covered by such leasehold, or other interest, in the manner provided by section one thousand two hundred seventy-one of the Code of Civil Procedure. Out of the proceeds arising from such sale, the amount of the judgment rendered for the state shall be paid into the state treasury and the balance shall be deposited with and distributed by the court in accordance with the interest of the parties therein. Any share of stock or the interest of any member in a company, association or corporation hereafter acquired in violation of the provisions of section three of this act shall escheat to the State of California as of the date of such acquiring in violation of the provisions of section three if this act, and it is hereby declared that any such share of stock or the interest of any member in such a company, association or corporation so acquired in violation of the provisions of section three of this act is an interest in real property. Such escheat shall be adjudged and enforced in the same manner as is provided in this section for the escheat of a leasehold or other interest in real property less than the fee.

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

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

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

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

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

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

The enumeration in this section of certain presumptions or inferences that reasonably may be made as to the existence of intent to prevent, evade or avoid escheat as provided for herein.

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

SEC. 10. If two or more persons conspire to violate any of the provisions of this act they are punishable by imprisonment in the county jail or state penitentiary not exceeding two years or by a fine not exceeding five thousand dollars, or both.
SEC. 10. Section eleven of said act is hereby amended to read as follows:
SEC. 11. Nothing in this act shall be construed as a limitation upon the power of the state to enact laws with respect to the acquisition, possession, enjoyment, use, cultivation, occupation, transferring, transmitting or inheriting by aliens of real property in this state.\textsuperscript{313}

\footnote{California Legislature, Statutes of California: Constitution of 1879 as Amended, Measures Submitted to Vote of Electors, 1923, General Laws, Amendments to Codes, Resolutions, Constitutional Amendments Passed at the Regular Session of the Forty-fifth Legislature, 1923 (Sacramento, 1923), 1020-25.}
APPENDIX E

"INELIGIBLE ALIEN" LAND LAWS OF SELECT WESTERN STATES

WASHINGTON

CHAPTER 50

[H. B. 79.]

ALIENS

An Act relating to the rights and disabilities of aliens with respect to lands, providing for forfeitures in certain cases, prescribing penalties, and repealing sections 135 and 136 Pierce's Code, 8775 and 8776 of Remington and Ballinger's Annotated Codes and Statutes of Washington.

Be it enacted by the Legislature of the State of Washington:

Section 1. In this act, unless the context otherwise requires,

(a) "Alien" does not include an alien who has in good faith declared his intention to become a citizen of the United States, but include all other aliens and corporations and other organized groups of persons a majority of whose capital stock is owned or controlled by aliens or a majority of whose members are aliens;

(b) "Land" does not include lands containing valuable deposits of minerals, metals, iron, coal or fire clay or the necessary land for mills and machinery to be used in the development thereof and the manufacture of the products therefrom, but does include every other kind of land and every interest therein and right to the control, possession, use or enjoyment, rents, issues or profits thereof except a mortgage and except a right to the possession, use or enjoyment of land for a period of not more than ten years for a purpose for which an alien is accorded the use of land by a treaty between the United States and the country whereof he is a citizen;

(c) "Land" also includes any share or interest in a corporation or other organized group of persons deemed an alien in this act which has title to land either heretofore or hereafter acquired;

(d) To "own" means to have the legal or equitable title or the right to any benefit of;

(e) "Title" includes every kind of legal or equitable title;

(f) Ownership of or title to land acquired by inheritance or in good faith either under mortgage or in the ordinary course of justice in the collection of debts, or acquired by a female citizen afterwards expatriated by marriage to an alien, is excluded;

(g) "Inheritance" included devise;
(h) "Mortgage" includes every kind of lien upon land;
(i) A mortgage of land under which an alien is entitled before default to any control,
possession, use or enjoyment of the land, is an absolute conveyance; and
(j) "Person" includes an individual, partnership, corporation or any other organized
group of persons.

Sec. 2. An alien shall not own land or take or holds title thereto. No person shall take
or hold land or title to land for an alien. Land now held by or for aliens in violation of the
constitution of the state is forfeited to and declared to be the property of the state. Land
hereafter conveyed to or for the use of aliens in violation of the constitution or of this act
shall thereby be forfeited to and become the property of the state.

Sec. 3. An alien is not qualified to be trustee under a will, executor, administrator or
guardian, if any part of the estate is land: Provided, An alien now lawfully acting in any
such capacity may continue for not more than two years.

Sec. 4. If hereafter an alien acquire land by inheritance or in good faith either under
mortgage of in the ordinary course of justice in the collection of debts and, remaining an
alien, hold the same for more than twelve years from the date title was so acquired or
control or possession taken, the land shall be forfeited to the state.

Sec. 5. If an alien, claiming or holding under a mortgage, has control, possession, use
or enjoyment of the mortgaged land, the obligation secured by the mortgage shall be
dehemed matured and the mortgage shall be foreclosed; and if the land be not sold under
foreclosure within three years after the alien has obtained control, possession, use or
enjoyment, the mortgage and the obligation thereby secured shall be forfeited to the state
and shall be foreclosed for the use of the state.

Sec. 6. Unless an alien who has declared his intention to become a citizen of the
United States be admitted to citizenship within seven years after his declaration was
made, it shall be presumed that he declared his intention in bad faith.

Sec. 7. Whoever
(a) Knowingly transfers or conveys land or title to land to an alien; or
(b) Knowingly takes land or title to land in trust for an alien; or
(c) Holding in trust for an alien land or title to land, either heretofore or hereafter
acquired, fails for thirty days after acquiring knowledge or notice that he holds in trust for
an alien to disclose the fact to the attorney general or the prosecuting attorney of the
county where the land is situated; or
(d) Being an alien and having title to land or control, possession, use or enjoyment
of land, whether heretofore or hereafter acquired, refuses to disclose to the attorney
general or the prosecuting attorney of the county where the land is situated the nature and
extent of his interest in and title to the land; or
(e) Being an officer or agent of a corporation or other organized group of persons
which has title to land or control, possession, use or enjoyment of land, whether
heretofore or hereafter acquired, refuses to disclose to the attorney general or the
prosecuting attorney of the county where the land is situated the nature and extent of the
interest of persons not citizens of the United States in the corporation or other organized
group of persons; or

(f) Being an officer or agent of a corporation or other organized group of persons
which holds in trust for an alien title to land or control or possession of land, whether
heretofore or hereafter acquired, refuses to disclose to the attorney general or the
prosecuting attorney of the county where the land is situated the nature and extent of the
alien's interest in and title to the land; or

(g) Willfully counsels, aids or abets another in violating or evading this act,
is guilty of a gross misdemeanor.

Sec. 8. It shall be the duty of the attorney general and of the prosecuting attorneys of
the several counties to enforce this act, and of the attorney general to direct and control
this enforcement.

Sec. 9. Property forfeited to the state by this act shall inure to the permanent common
school fund and be managed and disposed of accordingly.

Sec. 10. This act shall not impair any title or right heretofore or hereafter acquired or
derived through an alien in good faith and for value by a person not under an alien's
disability.

Sec. 11. If any section or provision of this act shall be adjudged to be invalid or
unconstitutional, such adjudication shall not effect the validity of the act as a whole or
any section, provision, or part thereof not adjudged invalid or unconstitutional.

Sec. 12. Sections 135 and 136 Pierce's Code, 8775 and 8776 of Remington and
Ballinger's Annotated Codes and Statutes of Washington are hereby repealed.

Passed at the House February 25, 1921.
Passed at the Senate March 2, 1921
Approved by the Governor March 8, 1921.314

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314 Washington Legislature, Session Laws of the State of Washington Extraordinary
Session Convened March 22, Adjourned March 23 1920 (Olympia, 1920), 156-60.
ARIZONA

CHAPTER 43
(Senate Bill No. 147.)

AN ACT

To Amend Chapter III, Title 46, Paragraph 4716, of the Revised Statutes of Arizona, 1913, Civil Code, Relating to the Rights, Powers, and Disabilities of Aliens and of Certain Companies, Associations and Corporations with Respect to Property in this State, and Repealing all Acts or Parts of Acts Inconsistent or in Conflict Herewith.

Be it Enacted by the Legislature of the State of Arizona:

That Chapter III, Title 46, Paragraph 4716, of the Revised Statutes of Arizona, 1913, Civil Code, be amended to read as follows:

Section 1. No person other than a citizen of the United States, or who has declared his intention to become such, or who is eligible to citizenship under the existing laws of the United States, and no corporation, more than thirty per cent of whose stock is owned by persons other than citizens of the United States, or who have declared their intention to become such, or who are eligible to citizenship under existing laws of the United States, shall hereafter acquire any land, or title thereto, or interest therein, other than mineral lands, or such as may be necessary for the actual working of mines and the reduction of the product thereof; provided, that no alien shall acquire title to any land or real property within this state. Except as hereafter provided; and provided further, that this chapter shall not prevent an alien from leasing any land or real property within this state for a period of exceeding five years; and, provided, further, that this chapter shall not prevent the holder (whether aliens or non-aliens) of liens upon real estate, or interest therein heretofore or hereafter acquired from holding or taking a valid title to the real estate in the enforcement of such lien; nor shall it prevent any such alien from enforcing any lien or judgment for any debt or liability now existing, or which may hereafter be created, nor from becoming a purchaser at any sale made for the purpose of collecting or enforcing the collection of such debt or judgment, nor preventing widows or heirs who are aliens, or who have not declared their intention to become citizens of the United States, from holding lands by inheritance; but all lands acquired as aforesaid shall be sold within five years after the title thereto shall be perfected in such alien, and in default of such sale within such time, the title of such real estate shall revert and escheat to the state of Arizona; and any person who has under his declaration to become a citizen, acquired the title to, or the right to possession of lands in this state, and who fails to complete his citizenship, shall be subject to all of the provisions of this chapter relating to aliens.

The provisions of this chapter shall not be construed in any way to prevent or interfere with the ownership of mining lands, or lands necessary for the working of mines and the reduction of the products thereof; nor shall the provisions of this chapter be so construed...
as to conflict in any manner with any rights existing under and by virtue of any treaty of
the United States with any other country.

Section 2. All acts and parts of acts inconsistent, or in conflict with the provisions of
this act are hereby appealed.

Approved March 12th, 1917.
OREGON
CHAPTER 98
AN ACT

[H.B. 34]

Relating to the rights, powers and disabilities of aliens and of certain companies, associations and corporations with respect to property in this state; providing for escheats in certain cases, prescribing for procedure therein, requiring reports of certain property holdings to facilitate the enforcement of this act, and prescribing penalties for violation of the provisions thereof.

Be it enacted by the People of the State of Oregon:

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

Section 2. All aliens other than those mentioned in section 1 of this act may acquire, possess, enjoy and transfer real property, or any interest therein, in this state, in the manner and to the extent and for the purpose prescribed by any treaty now existing between the government of the United States and the nation or country of which such alien is a citizen or subject, and not otherwise.

Section 3. Any company, association or corporation organized under the laws of this or any other state or nation, of which a majority of members are aliens, other than those specified by section 1 of this act, or in which a majority of the issued capital stock is owned by such aliens, may acquire, possess, enjoy and convey real property, or any interest therein, in this state, in the manner and to the extent and for the purposes prescribed by any treaty now existing between the government of the United States and the nation or country of which such members or stockholders are citizens or subjects, and not otherwise. Hereafter all aliens other than those specified in section 1 hereof may become members of or acquire shares of stock in any company, association or corporation that is or may be authorized to acquire, possess, enjoy or convey agricultural land, in the manner and to the extent and for the purposes prescribed by any treaty now existing between the government of the United States and the nation or country of which such alien is a citizen or a subject, and not otherwise.

Section 4. Hereafter no alien mentioned in section 2 hereof and no company, association or corporation mentioned in section 3 hereof, may be appointed guardian of that portion of the estate of a minor which consists of property which such alien or company, association or corporation in inhibited from acquiring, possessing, enjoying or transferring by reason of the provisions of this act. Any competent person or corporation...
may be appointed guardian of the estate of a minor citizen whose parents are ineligible to appointment under the provisions of this section. On such notice to the guardian as the court may require, the county or circuit court may remove the guardian of such an estate whenever it appears to the satisfaction of the court:

(a) That the guardian has failed to file the report required by the provisions of section 5 hereof; or
(b) That the property of the ward has not been or is not being administered with due regard to the primary interest of the ward; or
(c) That facts exist which would make the guardian ineligible to appointment in the first instance; or
(d) That the facts establishing any other legal ground for removal exist.

Section 5. (a) the term “trustee,” as used in this section, means any person, company, association or corporation that as guardian, trustee, attorney in fact, or agent, or in any other capacity has the title, custody or control of property, or some interest therein, belonging to an alien mentioned in section 2 hereof, or to the minor child of such an alien, if the property is of such a character that such alien in inhibited from acquiring, possessing, enjoying or transferring it.

(b) Annually, on or before the thirty-first of December, every such trustee must file in the office of the secretary of state of Oregon and in the office of the county clerk of each county in which any of the property is situated, a verified written report showing:
1. The property, real or personal, held by him for or on behalf of such alien or minor;
2. A statement showing the date when each item of such property came into his possession or control;
3. An itemized account of all expenditures, investments, rents, issues and profits in respect to the administration and control of such property, with particular reference to holdings of corporate stock and leases, cropping contracts and other agreements in respect to land, and the handling or sale of products thereof.

(c) Any person, company, association or corporation that violates any provision of this section is guilty of a misdemeanor, and shall be punished by a fine not exceeding one thousand dollars ($1,000) or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

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

Section 6. whenever it appears to the court in any probate proceedings that by reason of the provisions of this act any heir of devisee can not take real property in this state or membership or share of stock in a company, association or corporation, which but for said provisions said heir or devisee would take as such, the court, instead of ordering a distribution of such property the such heir of devisee, shall order a sale of said property to be made in the manner provided by law for probate sales of property, and the proceeds of such sale shall be distributed to such heir or devisee in lieu of such property.

Section 7. hereafter it shall be unlawful for any person, firm, company, copartnership, association, corporation or other organization to directly or indirectly convey, grant, sell,
bargaining, create, or cause, suffer or permit to be conveyed, granted, sold, bargained or created any real property in fee to or in any alien mentioned in section of this act, or to or in any firm, company, copartnership, association, corporation or other organization mentioned in section 3 of this act. Any real property acquired in violation of the provisions of this act shall escheat to, and become, and remain the property of the state of Oregon. In any such case it shall be the duty of the district attorney of the county in which the said real property, or any part thereof, is situated, to institute proceedings in the circuit court of that county to have such escheat adjudged and enforced. Such proceedings shall be commenced by the filing of a complaint in said court by said district attorney in which the state of Oregon shall be plaintiff, and all other parties known to be interested shall be named as defendants. The complaint shall describe the real property, the name of the owner or owners of the fee and of any others who are known to have or claim to have any interest therein, the name of the occupant, and the facts and circumstances showing the escheat, and the prayer shall be for the escheat of the said land so unlawfully acquired. Summons shall issue to all of the persons named as defendants, which summons shall be in the form prescribed for summons in action of law, and shall issue and be served in like manner. At any time after the complaint is filed and summons issued, upon the application of the district attorney, the court may, either before or after answer and upon such notice to the defendants as the court shall prescribe, and if sufficient cause therefore is shown to the court, appoint a receiver to take charge of such an estate and receive the income and profits of the same during the pendency of such proceeding. Any defendant may appear and answer or otherwise plead to the complaint. Any person claiming any interest in said land who is not named in the complaint as a defendant, may appear at any time before trial and by motion, for that purpose, be made a defendant. Any issue of fact shall be tried as issues of fact are tried in an action at law, with the aid of a jury if requested by either party. If the judgment upon trial be for the state, it shall include that such land has escheated and that the state is seized of the title thereof, and shall recover costs and disbursements against the defendants. The provisions of this section and of sections 2 and 3 of this act shall not apply to any real property hereafter acquired in the enforcement or in satisfaction of any lien now existing upon, or interest in, such property, so long as such real property so acquired shall remain the property of the alien company, association or corporation acquiring same in such manner. No alien, company, association or corporation mentioned in sections 2 and 3 hereof shall hold for a longer period than two years the possession of any agricultural land acquired in the enforcement of or in satisfaction of a mortgage or other lien hereafter made or acquired in good faith to secure a debt.

Section 8. hereafter it shall be unlawful for any person, firm, company, copartnership, association, corporation or other organization to direct, ally or indirectly convey, grant, sell, bargain, create, or cause, suffer or permit to be conveyed, granted, sold, bargained or created any leasehold or other interest in real property less than the fee, to or in any alien mentioned in section 2 of this act, or to or in any firm, company, copartnership, association, corporation or other organization mentioned in section 3 of this act. Any real property in which any leasehold or other interest less than the fee shall be hereafter acquired in violation of this act shall be subject to sale as hereinafter provided. Any leasehold or other interest in real property, less than the fee, hereafter
acquired in violation of this act shall by an alien mentioned in section 2 of this act, or by any company, association or corporation mentioned in section 3 of this act, shall escheat to the state of Oregon. The district attorney of the proper county shall institute proceedings to have such escheat adjudged and enforced as provided in section 7 of this act. It shall be determined upon the trial, as an issue of fact, what is the value of leasehold or other interest involved in the proceedings, and if the decision or verdict shall be for the state, including costs and disbursements. The court shall order a sale of the real property covered by such leasehold or other interest by the sheriff of the county where the land lies, at public auction, and for cash, in the same manner as provided by law for the sale of real estate upon execution, and report of said sale shall be made to the court, and the same confirmed, or the land resold, in the same manner as in sales of land upon execution. Out of the proceeds arising from such sale, the amount of the judgment, including costs and disbursements, rendered for the state shall be paid into the state treasury, and the balance shall be deposited with and distributed by the court in accordance with the interests of the parties therein. Any share of stock or the interest of any member in a company, firm, copartnership, corporation, association or other organization hereafter acquired in violation of the provisions of section 3 of this act, shall escheat to the state of Oregon. Such escheat shall be adjudged and enforced in the same manner as provided in this section for the escheat of a leasehold or other interest in real property less than the fee.

Section 9. every transfer of real property, or of an interest therein, though colorable in form, shall be void as to the state and the interest thereby conveyed or sought to be conveyed shall escheat to the state if the property interest is of such a character that an alien mentioned in section 2 hereof is inhibited from acquiring, possessing, enjoying or transferring it, and if the conveyance is made with intent to prevent, evade or avoid escheat as provided herein. A prima facie presumption that the conveyance is made with such intent shall arise upon proof of any of the following groups of facts:

(a) The taking of the property in the name of a company, other than the person mentioned in section 2 hereof, if the consideration is paid or agreed or understood to be paid by an alien mentioned in section 2 hereof.

(b) The taking of the property in the name of a company, association or corporation, if the memberships or shares of stock therein held by aliens mentioned in section 2 hereof, together with the memberships or shares of stock held by others but paid for and agreed or understood to be paid for by such alien, would amount to a majority of the membership or the issued capital stock of such company, association or corporation.

(c) The execution of a mortgage in favor of an alien mentioned in section 2 hereof, if said mortgagee is given possession, control or management of the property.

The enumeration in this section of certain presumptions shall not be so construed as to preclude other presumptions or interferences that reasonably may be made as to the existence of intent to prevent, evade or avoid escheat as provided for herein.
Section 10. if two or more persons conspire to effect a transfer of real property, or of an interest therein, in violation of the provisions hereof, they are punishable by imprisonment or by a fine not exceeding five thousand dollars ($5,000), or both.

Section 11. if any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act.

Approved by the governor February 16, 1923.
Filed in the office of the secretary of state February 16, 1923.316

316 Oregon Legislature, Constitutional Amendments Adopted and Laws Enacted by the People at the General Election November 7, 1922 together with the General Laws and Joint Resolutions, Concurrent Resolutions and Memorials Adopted by the Thirty-second Regular Session of the Legislative Assembly (Salem, 1923), 145-150.
MONTANA

CHAPTER 58.


Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. DEFINITIONS. For the purposes of this Act unless the context otherwise requires,

(a) "Alien" does not include a person eligible to citizenship, or one who has in good faith declared his intention to become a citizen of the United States, but does include other aliens or corporations or other organized groups of persons a majority of whom or whose capital stock is owned or controlled by aliens not eligible for citizenship or a majority of whose members are aliens;

(b) "Land" does not include lands containing valuable deposits of minerals, metals, iron, coal or fire clay or the necessary land for mills and machinery to be used in the development thereof and the manufacture of the products therefrom but does include every other kind of land and every interest therein and right to the control, possession, use, enjoyment, rents, issues or profits thereof except a mortgage and except a right to the possession, use or enjoyment of land for a period of not more than ten years for a purpose for which an alien in accorded the use of land be a treaty between the United States and the country whereof he is a citizen;

(c) "Land" also includes any share or interest in a corporation or other organized group of persons deemed an alien in this Act which has title to land either heretofore or hereafter acquired;

(d) To "own" means to have the legal or equitable title to or the right to any benefit of;

(e) "Title" includes every kind of legal or equitable title;

(f) Ownership of or title to land acquired by inheritance or in good faith either under mortgage or in the ordinary course of justice in the collection of debts, or acquired by a female citizen afterwards expatriated by marriage to an alien, is excluded;

(g) "Inheritance" includes devise;

(h) "Mortgage" includes every kind of lien upon lands;

(i) A mortgage of land under which an alien is entitled before default to any control, possession, use or enjoyment of the land, is an absolute conveyance;

(j) "Person" includes an individual, partnership, corporation or any other organized group of persons; and

(k) To "own" also means to have or hold any contract or agreement with the owner or possessor of land whereby the holder of such contract or agreement is required or permitted to possess, use or occupy such land.

Section 2. An alien shall not own land or take or hold title thereto. No person shall take of hold land or title to land for an alien. Land now held by or for aliens in violation
of the constitution of the state is forfeited to and declared to be the property of the state. Land hereafter conveyed to or for the use of aliens in violation of the constitution or of this Act shall thereby be forfeited to and become property of the state. Nothing herein contained shall be construed to destroy or limit existing or vested rights of any person at the time of the passage of this Act.

Section 3. an alien is not qualified to be trustee under a will, executor, administrator or guardian, if any part of the estate is land; PROVIDED, an alien now lawfully acting in such capacity may continue for not more than two years.

Section 4. if hereafter an alien acquires land by inheritance or in good faith either under mortgage or in the ordinary course of justice in the collection of debts and, remaining an alien, hold the same for more than twelve years from the date title was so acquired or control or possession taken, the land shall be forfeited to the state.

Section 5. if an alien, claiming or holding under a mortgage, has control, possession, use or enjoyment of the mortgaged land, the obligations secured by the mortgage shall be deemed matured and the mortgage shall be foreclosed; and if the land be not sold under foreclosure within three years after the alien has obtained control, possession, use or enjoyment, the mortgage and the obligation thereby secured shall be forfeited to the state and shall be foreclosed for the use of the state.

Section 6. Whoever
( a ) Knowingly transfers or conveys land or title to land to an alien; or
( b ) Knowingly takes land or title to land in trust for an alien; or
( c ) Holding in trust for an alien land or title to land, either heretofore or hereafter acquired, fails for thirty days after acquiring knowledge or notice that he holds in trust for an alien to disclose the fact to the attorney general or the prosecuting attorney of the county where the land is situated; or
( d ) Being an alien and having title to land or control, possession, use or enjoyment of land, whether heretofore or hereafter acquired, refuses to disclose to the attorney general or the prosecuting attorney of the county where the land is situated the nature and extent of his interest in and title to the land; or
( e ) Being an officer or agent of a corporation or other organized group of persons which has title to land or control, possession, use or enjoyment of land, whether heretofore or hereafter acquired, refuses to disclose to the attorney general or the prosecuting attorney of the county where the land is situated the nature and extent of his interest in and title to the land; or
( f ) Being an officer or agent of a corporation or other organized group of persons which has title to land or control, possession, use or enjoyment of land, whether heretofore or hereafter acquired, refuses to disclose to the attorney general or the prosecuting attorney of the county where the land is situated the nature and extent of persons not citizens of the United States in the corporation or other organized group of persons; or
( g ) Being an officer or agent of a corporation or other organized group of persons which has title to land or control, possession, use or enjoyment of land,
whether heretofore or hereafter acquired, refuses to disclose to the attorney general or the prosecuting attorney of the county where the land is situated the nature and extent of the alien's interest in and title to the land; or

(h) Willfully counsels, aids or abets another in violating or evading this act,

Is guilty of a misdemeanor and punishable by a fine of not less than One Hundred Dollars ($100.00) or more than One Thousand Dollars ($1,000.00) or six months in jail or both such fine and imprisonment.

Section 7. Property forfeited to the state by this Act shall inure to the permanent common school fund and be managed and disposed of accordingly.

Section 8. This Act shall not impair any title or right heretofore or hereafter acquired from or derived through an alien in good faith and for value by a person not under an alien's disability.

Section 9. All Acts and parts of Acts which are in conflict herewith are hereby repealed.

Section 10. This Act shall be in full force and effect from and after its passage and approval.

Approved March 1, 1923.\textsuperscript{317}

\textsuperscript{317} Montana Legislature, \textit{Laws, Resolutions and Memorials of the State of Montana Passed by the Eighteenth Legislative Assembly in Regular Session} (Helena, 1923), 123-126.
KANSAS

CHAPTER 209.

RELATING TO ALIENS.

House Bill no. 516.

An Act relating to the rights, powers, and disabilities of aliens and of certain companies, associations and corporations with respect to property in this state; providing for escheats in certain cases, prescribing for procedure therein, requiring reports of certain property holdings to facilitate the enforcement of this act; and prescribing penalties for violation of the provisions hereof.

Be it enacted by the Legislature of the State of Kansas:

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

Sec. 2. All aliens other than those mentioned in section 1 of this act may acquire, possess, enjoy and transfer real property, or any interest therein, in this state, in the manner and to the extent and for the purpose prescribed by any treaty now existing between the government of the United States and the nation or country of which such alien is a citizen or subject, and not otherwise.

Sec. 3. Any company, association or corporation organized under the laws of this or any other state or nation, of which a majority of the members are aliens, other than those specified in section 1 of this act, of which a majority of the issued capital stock is owned by such aliens, may acquire, possess, enjoy and convey real property, or any interest therein, in this state, in the manner and to the extent and for the purposes prescribed by any treaty now existing between the government of the United States and the nation or country of which such members or stockholders are citizens or subjects, and not otherwise. Hereafter all aliens other than those specified in section 1 hereof may become members of or acquire shares of stock in any company, association or corporation that is or may be authorized to acquire, possess, enjoy or convey agricultural land in the manner and to the extent and for the purposes prescribed by any treaty now existing between the government of the United States and the nation or country of which such alien is a citizen or a subject, and not otherwise.

Sec. 4. Hereafter no alien mentioned in section 2 hereof and no company, association or corporation mentioned in section 3 hereof, may be appointed guardian of that portion of the estate of a minor which consists of property which such alien or such company, association or corporation is inhibited from acquiring, possessing, enjoying or
transferring by reason of the provisions of this act. Any competent person or corporation
may be appointed guardian of the estate of a minor citizen whose parents are inelgibles
to appointment under the provisions of this section. On such notice to the guardian as the
court may require, the district court may remove the guardian of such an estate whenever
it appears to the satisfaction of the court: (a) That the guardian has failed to file the report
required by the provisions of section 5 hereof; or (b) That the property of the ward has
not been or is not being administered with due regard to the primary interest of the ward;
or (c) That facts exist which would make the guardian ineligible to appointment in the
first instance; or (d) That the facts establishing any other legal ground for removal exist.

Sec. 5. (a) The term “trustee” as used in this section, means any person, company,
association or corporation that as guardian, trustee, attorney in fact, or agent, or in any
other capacity has the title, custody or control of property, or some interest therein
belonging to an alien mentioned in section 2 hereof, or to the minor child of such an
alien, if the property is of such a character that such alien is inhibited from acquiring
possessing, enjoying or transferring it. (b) Annually, on or before the thirty-first of
December, every such trustee must file in the office county clerk of each county in
which any of the property is situated, a verified written report showing: (1) The property,
real of personal, held by him for or on the behalf of such alien or minor; (2) A statement
showing the date when each item of such property came into his possession or control;
(3) An itemized account of all expenditures, investments, rents, issues and profits in
respect to the administration and control of such property, profits in respect to the
administration and control of such property, with particular reference to holdings of
corporate stock and leases, cropping contracts and other agreements in respect to land,
and the handling or sale of products thereof. (c) Any person, company, association or
corporation that violates (violating) any provision of this section is guilty of a
misdemeanor, and shall be punished by a fine not exceeding one thousand dollars
($1,000) or by imprisonment in the county jail not exceeding one year, or by both such
fine and imprisonment. (d) The provisions of this section are cumulative and not
intended to change the jurisdiction or the rules of practice courts of justice.

Sec. 6. Whenever it appears to the court in any probate proceedings that by reason of
the provisions of this act any heir or devisee can not take real property in this state or
membershi or share of stock in a company, association or corporations, which but for
said provisions said heir or devisee would take as such, the court, instead of ordering a
distribution of such property to such heir or devisee, shall order a sale of said property to
be made in the manner provided by law for probate sales of property, and the proceeds of
such sale shall be distributed to such heir or devisee in lieu of such property.

Sec. 7. Hereafter it shall be unlawful for any person, firm, company, copartnership,
association, corporation or other organization to directly or indirectly convey, grant, sell,
bargain, create or cause suffer or permit to be conveyed, granted, sold, bargained or
created any real property in fee to or in any alien mentioned in section 2 of this act, or to
or in any firm, company, copartnership, association, corporation or other organization
mentioned in section 3 of this act. Any real property acquired in violation of the
provisions of this act shall escheat to, and become, and remain the property of the state of
Kansas. In any such case it shall be the duty of the county attorney of the county in which the aid real property or any part thereof, is situated, to institute proceedings in the district court of that county to have such escheat adjudged and enforced. Such proceedings shall be commenced by the filing of a complaint in said court by said county attorney in which the state of Kansas shall be plaintiff, and all other parties known to be interested shall be named as defendants. The complaint shall describe the real property, the name of the owner or owners of the fee and of any others who are known to have or claim to have any interest therein, the name of the occupant, and the facts and circumstances showing the escheat, and the prayer shall be for the escheat of said land so unlawfully acquired. Summons shall issue to all of the persons named as defendants, which summons shall be in the form prescribed for summons in action of law, and shall issue and be served in a like manner. At any time after the complaint is filed and summons issued, upon the application of the county attorney, the court may, either before or after answer and upon such notice to the defendants as the court shall prescribe, and if sufficient cause therefore is shown to the court, appoint a receiver to take charge of such estate and receive the income and profits of the same during the pendency of such proceeding. Any defendant may appear and answer or otherwise plead to the complaint. Any person claiming any interest in said land who is not named in the complaint as a defendant may appear at any time before trial and by motion, for that purpose, be made a defendant. Any issue of fact shall be tried as issues of fact are tried in an action at law, with the aid of a jury if requested by either party. If the judgment upon trial be for the state, it shall include that such land has escheated and that the state is seized of the title thereof, and shall recover costs and disbursements against the defendants. The provisions of this section and of section 2 and 3 of this act shall not apply to any real property so acquired shall remain the property of the alien, company, association or corporation acquiring the same in such a manner. No alien, company, association or corporation mentioned in sections 2 or 3 hereof shall hold for a longer period that two years the possession of any agricultural land acquired in the enforcement of or in satisfaction of a mortgage or other lien hereafter made or acquired in good faith to secure a debt.

Sec. 8. Hereafter it shall be unlawful for any person, firm, company, copartnership, association, corporation or other organization to directly or indirectly convey, grant, sell, bargain, create, or cause, suffer or permit to be conveyed, granted, sold, bargained or created any leasehold or other interest in real property less than the fee, to or in any alien mentioned in section 2 of this act, or to in any firm, company, copartnership, association, corporation or other organization mentioned in section 3 of this act. Any real property in which any leasehold or other interest less than the fee shall be hereafter acquired in violation of this act shall be subject to sale as hereinafter provided. Any leasehold or other interest in real property, less than the fee, hereafter acquired in violation of the provisions of this act by an alien mentioned in section 2 of this act, or by any company, association or corporation mentioned in section 3 of this act, shall escheat to the state of Kansas. The county attorney of the proper county shall institute proceedings to have such escheat adjudged and enforced as provided in section 7 of this act. It shall be determined upon the trial, as an issue of fact, what is the value of the leasehold or other interest involved in the proceeding, and if the decision or verdict be for the state, then the judgment rendered thereon shall declare said leasehold or other interest
to be escheated to the state, and for judgment for said value, so determined, in favor of the state, including costs and disbursements. Thereupon the court shall order a sale of the real property covered by such leasehold or other interest by the sheriff of the county where the land lie, at public auction, and for cash, in the same manner as is provided by law for the sale of real estate upon execution, and report of said sale shall be made to the court, and the same confirmed, or the land resold, in the same manner as in sales of land upon execution. Out of the proceeds arising from such sale the amount of the judgment, including costs and disbursements, rendered for the state shall be paid into the state treasury, and the balance shall be deposited with and distributed by the court in accordance with the interests of the parties therein. Any share of stock or the interest of any member in a company, firm, copartnership, corporation, association or other organization hereafter acquired in violation of the provisions of section 3 of this act, shall escheat to the state of Kansas. Such escheat shall be adjudged and enforced in the same manner as provided in this section for the escheat of a leasehold or other interest in real property less than the fee.

Sec. 9. Every transfer of real property, or of an interest therein, though colorable in form, shall be void as to the state and the interest thereby conveyed or sought to be conveyed shall escheat to the state if the property interest involved is of such a character that an alien mentioned in section 2 hereof is inhibited from acquiring, possessing, enjoying or transferring it, and if the conveyance is made with intent to prevent, evade or avoid escheat as provided for herein. A prima facie presumption that the conveyance is made with such intent shall arise upon proof of any of the following groups of facts: (a) The taking of property in the name of a person other than the person mentioned in section 2 hereof, if the consideration is paid or agreed or understood to be paid by an alien mentioned in section 2 hereof. (b) The taking of the property in the name of a company, association or corporation, if the memberships of shares of stock therein held by aliens mentioned in section 2 hereof, together with the memberships or shares of stock held by others but paid for and agreed or understood to be paid for by such alien, would amount to a majority of the membership or the issued capital stock of such company, association or corporation. (c) The execution of a mortgage in favor of an alien mentioned in section 2 hereof, if said mortgagee is given possession, control or management of the property. The enumeration in this section of certain presumptions shall not be so constructed as to preclude other presumptions or inferences that reasonably may be made as to the existence of intent to prevent, evade or avoid escheat as provided for herein.

Sec. 10. If two or more persons conspire to effect a transfer of real property, or of an interest therein, in violation of the provisions hereof, they are punishable by imprisonment in the county jail or state penitentiary not exceeding two years or by a fine not exceeding five thousand dollars ($5,000), or both.

Sec. 11. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act.
Sec. 12. This act shall take effect and be in force from and after its publication in the official state newspaper.

Approved March 16, 1925.
Published in official state paper March 21, 1925.\textsuperscript{318}

\textsuperscript{318} Kansas Legislature, \textit{State of Kansas Session Laws, 1925} (Topeka, 1925), 277-81.
AN ACT creating an "Alien Land Law" defining who may acquire real property in the State of Wyoming and providing penalty for the violation thereof.

Be It Enacted by the Legislature of the State of Wyoming:

Alien Land Law.

Section 1. there is hereby created an "Alien Land Law.

Certain Aliens Cannot Possess Land, etc.

Section 2. All aliens not eligible to citizenship under the laws of the United States are hereby prohibited from acquiring, possessing, enjoying, using, leasing, transferring, transmitting and inheriting real property, or any interest therein, in this State, or having in whole or in part the beneficial use thereof.

Transfer to Alien Void.

Section 3. Any transfer of real property or any interest therein in this State, in whole or in part, to any alien not eligible to citizenship under the laws of the United States is absolutely void and of no effect whatsoever.

Chinese Excluded.

Section 4. Provided the Chinese nationals shall be excluded from the provisions of this act.

Violation of Provisions a Felony.

Section 5. Any alien, not eligible for citizenship under the laws of the United States, violating any of the provisions of this Act is deemed guilty of a felony.

Violation of Provisions by Citizen a Felony.

Section 6. Any citizen of the United States or any person eligible to citizenship under the laws of the United States who knowingly violates any of the provisions of this Act shall be guilty of a felony.

Penalty.

Section 7. Any person violating any of the provisions of this Act shall be subject to a fine of not more than five thousand dollars and sentenced to not more than five years in the state penitentiary, either or both, t the discretion of the court.
Section 8. This Act shall take effect and be in force upon and after its passage and approval.

Approved February 10, 1943.\textsuperscript{319}

\textsuperscript{319} Wyoming Legislature, \textit{Session Laws of the State of Wyoming Passed by the Twenty-Seventh State Legislature} (Casper, 1943), 33.
ARKANSAS

ACT 47.

AN ACT to Safeguard the Real Property of the State of Arkansas and the Citizens Thereof and for Other Purposes: Because on Account of the Standards of Living of the Japanese People, a White Person Can Not Profitable Compete With the Japanese Either in Agriculture or Business; Now Therefore, .

Be it Enacted by the General Assembly of the State of Arkansas:

Section 1. On or after the effective date of this Act, no Japanese or a descendant of the Japanese shall ever purchase or hold title to any lands in the State of Arkansas.

Section 2. No corporation, trustee, agent or any person whatever shall purchase or own lands in the State of Arkansas in which a Japanese or a descendent of a Japanese is interested directly or indirectly.

Section 3. No corporation, trustee, agent or any person whatever shall rent for a term of over one (1) year any lands in Arkansas in which a Japanese or a descendent of a Japanese shall be interested directly or indirectly.

Section 4. All sales, conveyances or leases in conflict with this Act shall be absolutely void and of no effect whatever. Provided that any tax payer in any County in which an attempted sale or lease is located shall have the authority to file suit for the purpose of ousting ant pretended purchaser or lessee in violation of this Act.

Section 5. All laws and parts of laws in conflict with this Act are hereby repealed.

APPROVED: February 13, 1943.\(^\text{320}\)

\(^{320}\) Arkansas Legislature, Acts Concurrent Resolutions and Memorials of the Fifty-fourth General Assembly of the State of Arkansas (Little Rock, 1943), 74-75.
An Act Relating to the Rights, Powers and Disabilities of Aliens and of Certain Companies, Associations and Corporations with Respect to Property in This State, Providing for Escheats in Certain Cases, Prescribing the Procedure Therein, Prescribing Penalties for Violation of the Provisions Hereof, to be Known as Sections 78-6a-1, 78-6a-2, 78-6a-3, 78-6a-4, 78-6a-5, 78-6a-6, 78-6a-7, 78-6a-8, 78-6a-9, 78-6a-10, Utah Code Annotated 1943.

Be it enacted by the Legislature of this State of Utah:

Section 1. Sections Enacted.

Sections 78-6a-1, 78-6a-2, 78-6a-3, 78-6a-4, 78-6a-5, 78-6a-6, 78-6a-7, 78-6a-8, 78-6a-9, 78-6a-10, Utah Code Annotated 1943, are enacted to read:

78-6a-1. Aliens Eligible to Citizenship May Acquire Real Property—Exception.

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

78-6a-2. Other Aliens, to Extent Permitted by Treaty—Lese not Over One Year.

All aliens other than those mentioned in section 1 of this act may acquire, possess, and transfer real property, or any interest therein, in this state, in the manner and to the extent and for the purposes prescribed by any treaty now existing between the government of the United States and the nation or country of which such alien is a citizen or subject, and not otherwise, and may in addition thereto lease lands in this state for agricultural purposes for a term not exceeding one year.

78-6a-3. Id. Alien Groups Other Than Those Specified in Section 1 Hereof.

Any company, association or corporation organized under the laws of this or any other state or nation, of which a majority of the members are aliens other than those specified in section 1 of this act, or in which a majority of the issued capital stock is owned by such aliens, may acquire, possess, and convey real property, or any interest therein, in this state, in the manner and to the extent and for the purposes prescribed by any treaty now existing between the government of the United States and the nation or country of which such members or stockholders are citizens or subjects, and not otherwise, and may in
addition thereto lease lands in this state for agricultural purposes for a term not exceeding one year.

78-6a-4. Alien Guardianship Restrictions.

Hereafter no alien mentioned in section two hereof and no company, association or corporation mentioned in section three hereof, may be appointed guardian of that portion of the estate of a minor which consists of property which such alien in inhibited from acquiring, possessing, transferring, transmitting or inheriting, or which such company, association, or corporation in inhibited from acquiring, possessing, or transferring, by reason of the provisions of this act.

78-6a-5 Court May Order Sale for Distribution Where This Act Prevents Distribution in Kind.

Whenever it appears to the court in any probate proceeding that by reason of the provisions of this act any heir or devisee cannot take real property in this state or membership or shares of stock in a company, association or corporation which, but for said provisions, said heir or devisee would take as such, the court, instead of ordering a distribution of such property to such heir or devisee shall order a sale of said property to be made in the manner provided by law for probate sales of property and the proceeds of such sale shall be distributed to such heir or devisee in lieu of such property.


Any real property hereafter acquired in fee in violation of the provisions of this act by any alien mentioned in section two of this act, or by any company, association or corporation mentioned in section three of this act, shall escheat as of the date of such acquiring, to, and become and remain the property of the state of Utah. The attorney general of the state shall institute proceedings for the escheat of such real property.

78-6a-7. Leasehold and Other Interest in Real Property—Escheat.

Any leasehold or other interest in real property less than the fee, hereafter acquired in violation of the provisions of this act by any alien mentioned in section two of this act or by any company, association or corporation mentioned in section three of this act, shall escheat to the state of Utah, as of the date of such acquiring in violation of the provisions of this act. The attorney general shall institute proceedings for such escheat.

78-6a-8. Burden of Proof of Eligibility.

In any action or proceeding, civil or criminal, by the state of Utah, or the people thereof, under any of the provisions of this act, when the proof introduced by the state, or the people thereof, establishes the acquisition, possession, or transferring of real property, or any interest therein, or the having in whole or in part of the beneficial use thereof by
any defendant, or any of such fact, and the complaint, indictment or information alleges
the alienage and ineligibility to United States citizenship of such defendant, the burden of
proving citizenship, or eligible to citizenship shall thereupon devolve upon such
defendant.

78-6a-9. Conspiracy to Violate Act—Penalty.

If two or more persons conspire to violate any of the provisions of this act they are
punishable by imprisonment in the state penitentiary not exceeding two years or by a fine
not exceeding five thousand dollars, or both.

78-6a-10. Act, Constitutional in Part, Balance Effective.

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

Section 2. Effective Date.

This act shall take effect upon approval.
Approved March 16, 1943.\(^{321}\)

\(^{321}\) Utah Legislature, *Laws of the State of Utah, 1943 Passed at the Regular Session
of the Twenty-fifth Legislature* (Salt Lake, 1943), 127-129.
AN ACT

RELATING TO THE RIGHTS, POWERS AND DISABILITIES OF ALIENS AND OF CERTAIN COMPANIES, ASSOCIATIONS AND CORPORATIONS WITH RESPECT TO PROPERTY IN THIS STATE; PROVIDING FOR ESHEATS IN CERTAIN CASES; PRESCRIBING THE PROCEDURE THEREIN; REQUIRING REPORTS OF CERTAIN PROPERTY HOLDINGS TO FACILITATE THE ENFORCEMENT OF THIS ACT, AND PRESCRIBING PENALTIES FOR VIOLATION OF THE PROVISIONS OF THIS ACT PARAMOUNT TO ANY EXISTING ACTS OR PARTS OF ACTS IN CONFLICT HEREWITH.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. All aliens eligible to citizenship under the laws of the United States and all companies, associations and corporations organized under the laws of this or any other state or nation of which a majority of the members are eligible to citizenship under the laws of the United States and in which a majority of the issued capital stock is owned by such alien eligible to citizenship under the laws of the United States, may acquire, take hold, possess, enjoy, dispose of and inherit real property, or any interest therein in this state, in the same manner and to the same extent as citizens of the United States, except as otherwise provided by the laws of this state.

SEC. 2. All aliens other than those mentioned in Section 1 of this act, may acquire, take, hold, possess, enjoy and dispose of real property, or any interest therein, in this state, in the manner and to the extent and for the purposes prescribed by any treaty now existing between the government of the United States and the nation or country of which such alien is a citizen or subject, and not otherwise; and may in addition thereto, lease lands for agricultural purposes in this state; Provided, however, That no lease may be made the term of which shall be for a longer period than five years, and any lease hereafter made, the term of which is for a longer term than five years, shall be illegal and null and void.

SEC. 3. Any company, association or corporation organized under the laws of this or any other state or nation. of which a majority of the members are aliens other than those specified in Section 1 of this act, or in which a majority of the issued capital stock is owned by such aliens, may acquire, take, hold, possess, enjoy and dispose of real property, or any interest therein, in this state, in the manner and to the extent and for the purposes prescribed by any treaty now existing between the government of the United
States and the nation or country of which such members or stockholders are citizens or subjects, and not otherwise.

Hereafter all aliens other than those specified in Section 1 hereof may become members of or acquire shares of stock in any company, association or corporation, that is, or may be, authorized to acquire, take, hold, possess, enjoy and dispose of agricultural land in the manner and to the extent and for the purposes prescribed by any treaty now existing between the government of the United States and the nation or country of which such alien is a citizen or subject, and not otherwise.

SEC. 4. Hereafter no alien mentioned in Section 2 hereof and no company, association or corporation mentioned in Section 3 hereof, may be appointed guardian of that portion of the estate of a minor which consists of property which such alien or such company, association or corporation is inhibited from acquiring, taking, holding, possessing, enjoying or disposing of by reason of the provisions of this act. The public administrator of the proper county or any other competent person or corporation, may be appointed guardian of the estate of a minor citizen whose parents are ineligible to appointment under the provisions of this section.

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

(a) That the guardian has failed to file the report required by the provisions of Section 5 hereof; or
(b) That the property of the ward has not been or is not being administered with due regard to the primary interest of the ward; or
(c) That facts exist which would make the guardian ineligible to appointment in the first instance; or
(d) That facts establishing any other legal ground for removal exists.

SECTION 5. (a) The term “trustee” as used in this section means any person, company, association or corporation that as guardian, trustee, attorney in fact or legal agent, or in any other capacity, has the title custody or control of property or some interest therein, belonging to an alien mentioned in Section 2 hereof, or to the minor child of such an alien, if the property is of such a character that such alien is inhibited from acquiring, taking, holding, possessing, enjoying or disposing of the same.

(b) Annually on or before the thirty-first day of January every such trustee must file in the office of the secretary of state of Idaho and in the office of the county clerk of each county in which any of the property is situated, a verified written report showing:

1. The property, real or personal, held by him for or on behalf of such an alien or minor;
2. A statement showing the date when each item of such property came into his possession or control;
3. An itemized account of all expenditures, investments, rents, issues, and profits, in respect to the administration and control of such property with particular reference to holdings of corporate stock and leases, cropping contracts and other agreements in respect to land and the handling or sale of products thereof.
(c) Any person, company association or corporation that violates any provision of this section, is guilty of a misdemeanor and shall be punished by a fine not exceeding three hundred dollars ($300) and by imprisonment in the county jail not exceeding six months.

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

SEC. 6 Whenever it appears to the court in any probate proceeding that by reason of the provisions of this act any heir or devisee cannot take real property in this state of membership or shares of stock in a company, association or corporations which, but for said provisions, said heir or devisee would take as such, the court, instead of ordering a distribution of such property to such heir or devisee, shall order a sale of said property to me made in the manner provided by law for probate sales of property and the proceeds of such sale shall be distributed to such heir or devisee of such property.

SEC. 7. Any real property hereafter acquired in fee in violation of the provisions of this act by an alien mentioned in Section 2 hereof or by any company, association or corporation mentioned in Section 3 of this act, shall escheat to the state of Idaho, and shall be held and treated as school lands and may be disposed of in the same manner. The attorney general of the state of Idaho shall institute proceeding to have the escheat of such real property adjudged and decreed; such action may be instituted in the district court of any county in this state in which such real property, or any portion thereof is situated. Upon the entry of such judgment and decree, the title of such real property shall pass to the state of Idaho.

The provisions of this section and of Sections 2 and 3 of this act shall not apply to any real property hereafter acquired in the enforcement or in satisfaction of any lien now existing upon, or interest in such property so long as such real property so acquired shall remain the property of the alien, company, association or corporation acquiring the same in such manner.

No alien, company, association or corporation mentioned in Section 2 or Section 3 of this act shall hold for a longer period than two years the possession of any agricultural land acquired in the enforcement or in satisfaction of a mortgage or other lien hereafter made or acquired in good faith to secure a debt.

SEC. 8. Any leasehold or other interest in real property less than the fee, hereafter acquired in violation of the provisions of Section 2 of this act by any alien mentioned in Section 2 thereof, or by any company, association or corporation mentioned in Section 3 of this act, shall escheat to the state of Idaho.

The attorney general of the state shall institute proceedings in the district court of the county in which such real property or a portion thereof, is situated, to have such escheat adjudged and decreed. In such proceeding, the court shall determine the value of such leasehold or other interest in such real property and enter judgment for the state for the amount thereof, together with costs. Thereupon the court shall order a sale of the real property covered by such leasehold, or other interest, in the same manner as prescribed by the laws of Idaho for sales of real estate under mortgage foreclosure. Out of the proceeds arising from such sale, the amount of the judgment rendered for the state shall be paid into the state treasury for the credit of the school fund and the balance shall be distributed to such heir or devisee of such property.
deposited with, and distributed by the court in accordance with the interest of the parties therein.

Any share of stock or the interest of any member in a company, association or corporation hereafter acquired in violation of the provisions of Section 3 of this act shall escheat to the state of Idaho. Such escheat shall be adjudged and decreed and enforced in the same manner as in this section provided for the escheat of a leasehold or other interest in real property less than the fee.

SEC. 9. Every transfer of the real property, or of an interest therein, though colorable in form, shall be void as to the state and the interest thereby conveyed or sought to be conveyed shall escheat to the state if the property interest involved is of such character that an alien mentioned in Section 2 hereof is inhibited from acquiring, taking, holding, possessing, enjoying or disposing of the same, and if the conveyance is made with intent to prevent, evade or avoid escheat as provided for herein.

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

(a) The taking of the property in the name of a person other than the persons mentioned in Section 2 hereof if the consideration is paid, agreed of understood to be paid by an alien mentioned in Section 2 hereof;

(b) The taking of the property in the name of a company, association or corporation if the membership of shares of stock therein held by aliens mentioned in Section 2 hereof, together with the memberships or shares of stock held by others but paid for or agreed or understood to be paid for by such aliens, would amount to a majority of the membership or the issued capital stock of such company, association, or corporation;

(c) The execution of a mortgage in favor of an alien mentioned in Section 2 hereof if said mortgagee is given possession, control, or management of the property.

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

SEC. 10. If two or more persons conspire to effect a transfer of real property, or of an interest therein, in violation of the provisions hereof they are punishable by imprisonment in the county jail or state penitentiary not exceeding two years or by a fine not exceeding five thousand dollars ($5,000.00) or both.

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

SEC. 12. If any section, sub-section, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act, and the provisions hereof are hereby declared paramount
to any existing acts or parts of acts that may conflict with the provisions hereof, to such extent only, however, as the same conflict.\textsuperscript{322}

\textsuperscript{322} Idaho Legislature, \textit{General Laws of the State of Idaho Passed at the Seventeenth Session of the State Legislature} (Boise, 1923), 160-65.
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167

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169


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VITA
Graduate College
University of Nevada, Las Vegas
Lance David Muckey

Home Address:
6222 Ordaz Avenue #103
Henderson, Nevada 89015

Degrees:
Bachelor of Arts, History, 2001
University of Northern Iowa, Cedar Falls, Iowa

Thesis Title: Nevada’s Odd Response to the “Yellow Peril”: Asians and the Western Ineligible Alien Land Laws

Thesis Examination Committee:
Chairperson, Dr. David Tanenhaus, Ph. D.
Committee Member, Dr. Joseph Fry, Ph. D.
Committee Member, Dr. Eugene Moehring, Ph. D.
Graduate Facility Representative, Dr. Michael Bowers, Ph. D.