

born citizens of the United States enjoy, referring especially to the situation of the negro.

Mr. T. Baty, in the *Law Magazine and Review* (of London) for February, 1907, examines the text of the treaty, and expresses the positive opinion that no infringement of Japanese rights, contractual or real, can be said to have been committed.

THE NEW IMMIGRATION LAW

The bill "to regulate the immigration of aliens into the United States" which was introduced during the first session of the fifty-ninth congress, finally became law on the twentieth of February, 1907, after extended debates in both houses. The measure was considered with minute care and was subjected to thorough scrutiny by senators and representatives alike. Certain differences of opinion were early manifested relative to important sections of the proposed enactment which resulted in mutual concessions before the bill became law, but as finally enacted it is a distinct advance upon the existing legislation.

The act of March 3, 1903, which was the existing law on the subject of immigration prior to the recent enactment, was a revision of former laws on the same subject theretofore in force. The act of February 20, 1907, is an amendment and extension of the act of 1903. Many of its provisions have been incorporated into the new law without change. In many places insertions have been made in accordance with the principle of selection upon which our immigration system is founded, while other additions may be explained upon general reasons of policy. The more important changes include an increase in the "head tax" so-called; certain additions to the excluded classes; a provision defining contract laborers; a check upon the padrone system; an increase in the amount of air space allowed to steerage passengers in steamships; the correction of an apparent variance between certain sections of the law heretofore in force relating to the time within which deportation can take place so as uniformly to extend the period to three years in all cases; the creation of a bureau of information to facilitate the distribution of immigrants throughout the United States; the formation of a commission to examine and report to congress upon the subject of immigration, and the project of an international immigration conference, or in lieu thereof, the appointment of special commissioners to visit foreign countries and enter into agreements with them for the purpose of obtaining their coöperation in carrying out our immigration laws. Many other changes were made, perhaps of minor importance, but nevertheless useful, which show the

care bestowed upon their task by those having the matter in charge. The addition of two important sections providing for a financial qualification and an educational test, were rejected, the former in the house of representatives and the latter in the conference between the two houses of congress.

The principle upon which our immigration statutes rest may be stated very simply. This country has a use for every able-bodied man of good character and good principles that may apply at our doors for admission, and such a one shall receive a welcome; but no others need apply, and it is the purpose of our laws to keep out these others. The law of 1903 was based upon this principle. Its purpose was to cause a most thorough examination to be made of all aliens seeking to become residents of the United States. Should an objectionable applicant appear he was to be excluded, whether the objection was of a physical, mental or moral nature. The law of 1907 has aimed to carry still further this principle of selection. As Senator Dillingham said in introducing the measure, we should

permit only those to enter who are sound in mind, sound in body, sound in morals, and fit to become fathers and mothers of American children.

The restrictions now added to the statutes have this great end in view, and there would seem to be no doubt that our immigration law, by virtue of this recent act of congress, is now simpler, better, and more efficacious.

The first important change made by the new law is to raise the tax upon aliens entering the United States from two dollars to four dollars for each person so entering. A tax of fifty cents was imposed upon every immigrant by the act of 1882, which was afterward raised to one dollar, and under the act of 1903 it was increased to two dollars. By the present law this tax is now doubled. This increase was adopted largely owing to the belief that it would reduce the number of undesirable applicants for admission. While it would not prevent all prospective immigrants of this class from coming to this country, the payment of the additional tax would doubtless be a consideration to the incompetent and undesirable, and it is believed that it will deter the shipment of paupers and criminals.

By the terms of one of the provisos annexed to the first section of this act its provisions

shall not apply to aliens arriving in Guam, Porto Rico, or Hawaii.

This clause was adopted in view of the belief that these island possessions of the United States were proportionally more in need of immi-

grants than the mainland and that the same danger from excessive immigration did not exist there, but in order to preclude the possibility of the evasion of the tax should an alien who had landed thereon afterward come to the United States, it was declared that

if any such alien, not having become a citizen of the United States, shall later arrive at any port or place of the United States on the North American continent,

he should be subjected to the tax.

The final proviso of the first section of the new law is significant, which gives power to the president to refuse entrance to our mainland to aliens who have passports from their government permitting them to go to our island possessions or to the canal zone. The purport of these words will be found elsewhere treated in the pages of this JOURNAL.

The additions made to the excluded classes in §2 of the new law seem to be abundantly wise. These additional classes for whom exclusion is now provided include imbeciles, feeble-minded persons, persons who have been insane within five years previous to immigration, and persons afflicted with tuberculosis. As it was found in practice that a class, of considerable proportions, has heretofore been admitted who are highly undesirable on account of their general anæmic condition or low vitality, but who nevertheless did not come under any of the restrictions of the old law or had been otherwise specially excluded under the new, a clause was incorporated including

persons not comprehended within any of the foregoing excluded classes who are found to be and are certified by the examining surgeon as being mentally or physically defective, such mental or physical defect being of a nature which may affect the ability of such alien to earn a living.

But the rigor of this and of other prescriptions of this section is materially lessened by the terms of §26 which provides that the alien may give bond against his becoming a public charge.

Certain amendments were also added with a view to the strengthening of the contract labor laws. Contract laborers were defined to be persons * * * who have been induced to migrate to this country by offers or promises of employment or in consequence of agreements, oral, written or printed, express or implied, to perform labor in this country of any kind, skilled or unskilled,

and adequate measures are enacted for their exclusion. During the debates in congress, it was developed that the United States immigration officials had not for years been able properly to enforce these laws, and the object of the amendments was to make possible such enforcement, so as to carry into effect the purposes that congress had in view when it enacted them originally.

Another clause in §2 is intended to do away with the so-called "padrone system," under which men bring here, from Italy and other countries, boys from twelve to sixteen years old and control their lives and earnings until they become of age. It provides for the exclusion of

all children under sixteen years of age unaccompanied by one or both of their parents, at the discretion of the secretary of commerce and labor or under such regulations as he may from time to time prescribe.

A subsequent section (§11) provides for the exclusion of an alien who accompanies a rejected alien as his protector or guardian, and prescribes that the steamship company shall return him

in the same manner as vessels are required to return other rejected aliens,

that is, without cost to the immigrant. This provision was enacted for humanitarian reasons at the instance of our immigration officials. Still another section (§25) alters the law regarding the finality of the decision of the immigration authorities or of the secretary of commerce and labor upon a question of exclusion. Heretofore, by virtue of the old statute, such a decision was prescribed to "be final," and it has been contended that the decision, when once rendered, could not be reopened, even in case it developed, after the alien's admission, that he had been admitted unlawfully. To remedy this defect, the new law states that decisions of the authorities shall be final only when adverse to the immigrant. It also provides (§12) that lists of outgoing aliens shall be kept, so that henceforth it will be possible for the immigration authorities, by comparison of their lists of incoming and outgoing passengers, to determine the excess of the one class over the other, so as to ascertain the net amount of immigration during any period.

We come now to what may be called the distinctive features of the new law, namely, the provisions for a bureau of information for the benefit of the immigrant, for an immigration commission, and the project of general or special negotiations with foreign countries concerning immigration into the United States. Section 40 of the new law gives authority to the commissioner general of immigration, under the direction and control of the secretary of commerce and labor, to establish a division of information whose duty it shall be

to promote a beneficial distribution of aliens admitted into the United States among the several states and territories desiring immigration.

It is further provided that

correspondence shall be had with the proper officials of the states and territories and such division shall gather from all available sources useful information regard-

ing the resources, products, and physical characteristics of each state and territory and shall publish such information in different languages and distribute the publications among all admitted aliens who may ask for such information at the immigrant stations of the United States and such other persons as may desire the same;

and that where any state or territory maintains an agent to represent it at an immigrant station, such agent should, subject to the rules of the department of commerce and labor,

have access to aliens who have been admitted to the United States for the purpose of presenting either orally or in writing the special inducements offered by such state or territory to aliens to settle therein.

Most of the incoming immigrants know before they leave home where they expect to locate in the United States, but a large number who come do not know where to go, and the object of the new clause is to obtain information which will be helpful in making a choice. This information would include details as to the climate and soil of the different parts of the United States, the price of land, the route and cost of travel and the rate of wages. Under existing conditions, certain states, such as New York, Pennsylvania, New Jersey and Massachusetts and perhaps a few others, have attracted more immigrants than other states, because more accessible to the point of debarkation. The object of the new provision is to bring to the immigrant a knowledge of the attractions of the other sections of our country. The south is in special need of desirable immigrants to work its cottonfields and to develop its great and constantly growing manufacturing and mining industries, and at least one southern state maintains an agent in Europe in order to induce desirable immigrants to go thither. It is proposed by this new legislation to lay the attractions and inducements of all parts of our country before all immigrants that desire such information, without favor to any section. This measure has strongly appealed to both branches of congress and it is considered that its enactment into law will be distinctly beneficial.

Almost the final touch given this great measure by the law-makers was to provide that a commission shall be created, consisting of three senators, three representatives, and three persons to be chosen by the president, to

make full inquiry, examination and investigation by sub-committee or otherwise into the subject of immigration.

The commission has full authority to examine witnesses, administer oaths, send for persons and papers, make all necessary travel both in the United States and abroad, and to employ needful clerical and other

assistance. An abundant provision is made for payment of expenses, so as to make effective the commission's powers. The law states that the commission

shall report to the congress the conclusions reached by it and make such recommendations as in its judgment may seem proper.

This provision was adopted in lieu of an educational qualification. The senate had embodied in its bill a clause denying admission into the United States to all immigrants over sixteen years of age who could not read the English language or some other language. The measure was opposed in the house of representatives upon the ground that it was violative of the fundamental principles upon which our immigration laws are founded, and substituted a certain degree of intellectual proficiency for the basic qualification of physical, mental and moral soundness. It was represented that the immigration question was now not so much a problem of restriction as it was one of proper distribution, and emphasis was laid upon the fact that many sections of our country are clamoring for immigrants. It was urged that, inasmuch as it had been twenty years since a thorough investigation had been made into the subject, it would be eminently desirable to conduct such an investigation before enacting any drastic innovations upon existing law. The reasoning of the house conferees prevailed over those of the senate and the "illiteracy test," so-called, went out of the measure, and the project of a commission to examine and report upon the whole immigration question was substituted therefor. The commission has already been named and the list of members is a sufficient guaranty of the thoroughness with which their work will be done.

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

It has been realized that the coöperation of foreign countries is not only desirable but necessary if we would seek to bring our immigration

laws to the highest state of efficiency. It would be of great advantage if, for instance, foreign governments would grant to our consuls the privilege of examining prospective immigrants, prior to their embarkation, with sufficient thoroughness to prevent the departure of such of them as appear under our laws to be liable to exclusion. Since this purpose, as well as any more active assistance on the part of a foreign country, can best be accomplished by international agreement, authority has been given to the president to call in his discretion an international conference with the view to the conclusion of a general convention on the subject of immigration into the United States, or, in the alternative, the president may send commissioners to foreign countries to make special agreements with them to the end that they may recognize and aid the United States in the enforcement of its immigration laws.

It is to be noted that one of the concluding paragraphs provides that nothing in this act shall be construed to apply to accredited officials of foreign governments nor to their suites, families, or guests.

The committee on immigration of the house of representatives, in their report on the bill, make the pertinent comment that

it is exceedingly probable that international law already exempts officials of foreign governments from our immigration laws.

In other words, the provision is intended to be merely declaratory of the great principle of the law of nations which exempts from the local jurisdiction the diplomatic representatives of a foreign state and their official household. The exemption has been extended by the present law to their guests as well, as it was realized that such an exemption would not be abused. Every instance of the recognition by this government of the doctrines of the common law of nations in our system of positive law should be regarded as significant. Especially does it encourage the aims and objects toward which the Interparliamentary Union is striving, and of the great movements which make for the peace of the world. It makes it possible to hope that, in the evolution of international relations, there may spring forth a code of positive law, made and sanctioned and obeyed by the enlightened powers of the earth, which will become the uniform and supreme law by which the dealings of state with state will be judged.

THE NEW CITIZENSHIP LAW

The congress which passed the naturalization act (printed in Supplement, January number, pp. 31-47) has had the good fortune to round out its labors with an act on citizenship, by means of which the law of