



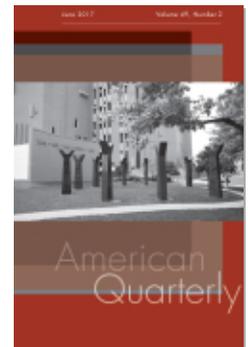
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Exclusion on the Ground: Racism, Official Discretion, and the Quotidian Enforcement of General Immigration Law in the Pacific Northwest Borderland

Hidetaka Hirota

In the 1890s immigration officers in Washington State busily enforced federal immigration law against newcomers from Asia. The officials had been executing the Chinese exclusion law since the 1880s, but their principal duty shifted by the middle of the 1890s to excluding the Japanese deemed to belong to prohibited classes under general immigration law applicable to all non-Chinese foreigners, such as paupers, people likely to become public charges, and people migrating under contract to perform labor in the United States (contract laborers). Charged with guarding multiple points of entry with limited staff, Washington officers found themselves traveling all the time. An officer named William Archer in Tacoma was instructed by his supervisor to visit Seattle twice a week to examine Japanese passengers arriving there. Immediately after completing the inspection, Archer was told, he should return to Tacoma “with as little delay as possible.” At the same time, he was instructed, “your examination of these immigrants must be thorough.”¹ What would constitute a “thorough” examination when a small group of inspecting officers operated on a tight schedule to process a large number of foreigners? The federal immigration bureau had established basic procedures for immigration regulation, but in reality these procedures were subject to enforcing officers’ personal interpretations. And for local officials, the “thorough” implementation of the law did not necessarily mean strict adherence to those procedures. In their zealous effort to guard the border against undesirable foreigners, some inspectors used their own criteria, stricter than the official guidelines, and even adopted unlawful methods. The present essay examines the role of official discretion in immigration law enforcement in the Pacific Northwest borderland at the turn of the twentieth century.

Immigration policy on the admission and removal of foreigners has recently emerged as a subject for particularly intensive scrutiny in American studies.

Building on earlier works examining the literary, cultural, and legal construction of race, scholars have investigated the myriad ways in which immigrants were categorized as excludable racialized others in American immigration policy.² Nevertheless, the literature on the topic as it currently stands has some problems. First, while recognizing the importance of anti-Asian racism in the evolution of federal immigration policy, scholars have paid disproportionate attention to the Chinese, and our knowledge about the exclusion experiences of other Asian groups, such as the Japanese, is relatively limited. Another historiographical issue concerns methodology. American studies has produced fine works analyzing how racial ideology and ethnic prejudice guided the development of immigration law.³ Also, as part of the larger “transnational turn” in American studies, scholars have recently expanded the scope of their inquiry beyond the confines of the United States to situate American nativism in transnational contexts.⁴ At the same time, however, most studies tend to focus on a discursive analysis of anti-immigrant agitation, extralegal action against foreigners by nativist Americans, or the legislative process for the introduction of new regulatory policies. While the ideological, social, and political framework of restriction has been scrutinized, the question of how the general immigration law applied to non-Chinese Asians *in practice* awaits fuller exploration. In Japanese migration scholarship, American immigration policy is often explored in the context of its influence on the social and economic profiles of Japanese migrants, the formation of Japanese communities in America, and the identity of Japanese Americans. Some historians have recently investigated strategies Japanese migrants adopted to circumvent immigration laws and the roles of steamship companies in the Japanese attempts to secure admission into the United States.⁵ Nevertheless, the exact situation of law enforcement at the border, its impact on the lives of the Japanese who fell into the clutches of state power, and most importantly the implication of their experience with law enforcement for the development of American immigration policy remain unclear.

Adopting a sociolegal method that pays equal attention to the legal and institutional aspects of immigration policy and its practical implementation, this essay examines local inspectors’ quotidian enforcement of general immigration law against the Japanese at the Washington–British Columbia border, highlighting the centrality of prosecutorial discretion in their activities. The influx of Japanese laborers in the 1890s provoked intense anti-Japanese sentiment among local whites, but Congress refused to enact any legislation categorically targeting the Japanese, for fear of offending Japan, a rising power in Asia and

the Pacific.⁶ Without counterparts of Chinese exclusion laws for the Japanese, Washington inspectors interpreted and executed the general immigration law as they saw fit, minimizing Japanese immigrants' legal rights and expelling them through coercive and sometimes unauthorized proceedings—a development facilitated by the features of the borderland, such as the tenuousness of central authorities' supervisory power and the predominance of private surveillance. Local officials' assertion of unchecked power against the Japanese paralleled the development at the level of the Supreme Court of the so-called plenary power doctrine, which recognized unfettered official power over foreigners. In tracing this development, the essay reveals transnational dimensions of inspectors' migration surveillance, which involved US officers' fluid discretionary movements between the United States and Canada. By analyzing diverse ways that inspectors' discretion shaped the restriction of Japanese immigration, the essay as a whole demonstrates how racism was structurally enabled in the execution of general immigration law by a host of local, national, and transnational practices and situations.

The sociolegal analysis of border control broadens our perspectives on the role of official discretion in federal immigration policy. Many of the previous inquiries into the subject concern how it affected the selection of Chinese immigrants under Chinese exclusion laws.⁷ While they suggest the internal complexity of Chinese exclusion, which was explicitly designed against the Chinese, the Japanese case presents a fundamentally different dimension of official discretion by illuminating how it racialized technically color-blind *general* immigration laws in practical terms to exclude Asians while letting Europeans in. Analyzing the experience of the Japanese thus unmask the meaning and working of race in the sphere of public policy, a vital topic in American studies. The racialized use of the general law at officials' discretion eventually became the norm in American immigration policy, as suggested by studies of admission procedures at the Angel Island landing station in California, which opened in 1910, and the removal of Mexican immigrants in the twentieth century.⁸ Yet few scholars have attempted to locate the historical origins of the practice. This essay argues that Washington inspectors' approaches to Japanese immigrants in the formative period of federal control during the 1890s helped lay the foundations for the racialized enforcement of general immigration policy, prefiguring the exclusion experiences of newcomers of non-European descent in later periods.

Examining Washington inspectors' quotidian practices allows for a new understanding of immigration control at the US–Canada border. Compared

with US–Mexico border control, scholars tend to view northern border control as moderate. Although pioneering studies of US–Canada border control, such as those by Joan Jensen and Erika Lee, have examined the development of regulatory policy, the center of their analyses lies in diplomatic and legislative efforts to establish systems of surveillance, rather than how such systems practically operated, leaving the perceived leniency of northern border control on the ground level fundamentally intact.⁹ As Kornel Chang notes, the northern border has thus been “rarely, if ever, problematized as site of contest or power.”¹⁰ Some scholars including Chang have recently revealed how racial and territorial boundaries in the Pacific Northwest were drawn in more violent ways than historians have assumed through local whites’ anti-Asian agitation and riots.¹¹ Building on their interpretation, this essay demonstrates that the US–Canada border was an area of intense immigration control comparable to the southern border, not only because of grassroots anti-Asian activism but more directly because of public officials’ harsh, discretionary practices of law enforcement characterized by racist determinations and coercive actions.

Federal Immigration Policy and Anti-Japanese Sentiment in the Pacific Northwest

One of the most important developments in the United States after the Civil War was the formation of federal immigration policy. Starting with the Page Act of 1875, which prohibited the landing of prostitutes and “oriental” laborers brought involuntarily, the federal government established an extensive system of immigration control. The Chinese Exclusion Act of 1882 suspended the immigration of Chinese laborers, while general immigration legislation passed in the same year excluded criminals and people unable to financially support themselves, such as paupers and lunatics. Three years later, Congress prohibited the admission of contract laborers with the Foran Act. The Immigration Act of 1891 established the federal Bureau of Immigration in the Treasury Department, with the superintendent of immigration as its director, placing the control of immigration under the bureau.¹² In Washington State, officers of the Puget Sound customs district within the Treasury Department were charged with executing the law as immigrant inspectors. While the collector of customs oversaw the entire district, inspectors were placed at major immigrant-receiving points, such as New Whatcom, Seattle, Sumas, and Tacoma. The Puget Sound district as a whole had four or five regular inspectors.¹³

With the development of federal immigration policy, the Pacific Northwest emerged as a prime site of immigration law enforcement. San Francisco remained the busiest port on the western seaboard, but the unique geographic settings of Washington made immigration control in the state particularly intense, if not entirely successful. Because Washington shared with the Canadian province of British Columbia both Puget Sound and extensive land borders, the state received immigrants through various routes. In addition to foreigners coming on steamships from Asia and the Pacific, Puget Sound officials had to keep a close eye on those arriving in Washington via British Columbia by ship and railroad, after first landing in Canadian ports such as Vancouver and Victoria.

A growing influx of Japanese laborers emerged as a problem in the administration of immigration policy in the Puget Sound district in the 1890s. Economic distress brought about by the Japanese government's pursuit of rapid modernization and industrialization after the Meiji Restoration in 1868 drove impoverished farmers in the rural parts of Japan to emigrate abroad. Most Japanese migrants managed to cross the Pacific with their own savings or money borrowed from relatives or friends, but a significant portion of them migrated as contract laborers through Japanese private emigration companies, which made a profit by recruiting laborers, arranging their transportation, and providing them to farming, mining, or construction firms in North America needing cheap foreign labor. In return for the transportation cost paid by the emigration companies, the contract migrants engaged in assigned labor for a certain period of time, usually a few years. Washington State became a major recipient of this Japanese migration.¹⁴ The Japanese population in Washington drastically expanded from 360 in 1890 to 5,617 in 1900, making the Japanese the largest immigrant group in the state. By 1900 more Japanese lived in Seattle than in San Francisco.¹⁵ The arrival of Japanese laborers quickly provoked the hostility of white Americans in the Pacific Northwest, just as Chinese immigration had earlier. Preexisting racial prejudice against Asian immigrants as docile and servile laborers who would work for extremely low wages led white workers to oppose the admission of Japanese immigrants. Observing the situation of the Puget Sound district, a federal official noted that "public interest in the question of Japanese immigration does not show any sign of abatement, on the contrary, it grows more and more feverish, from day to day."¹⁶

Administrative Problems with Law Enforcement and the Rise of Prosecutorial Discretion

With increasing pressure from local white residents, Puget Sound officers confronted the necessity to restrict Japanese immigration with general immigration law. Although the Puget Sound district was charged with guarding America's Pacific Northwestern borders, law enforcement in the region suffered an array of administrative problems, such as understaffing and inadequate facilities. Inspectors' endeavor to implement the law under these conditions led to the creation of a style of immigration control heavily driven by their discretion. As a result, the enforcement of the general immigration law in the Puget Sound district became increasingly racialized in ways that better served the officials' interests in excluding the Japanese while encouraging white immigration. South Asians soon became subjects of strict immigration control in Washington State, but South Asian immigration was limited prior to 1907, with only nine Indians arriving in the United States in 1900, for example.¹⁷ The Japanese were the major targets for the racialized use of the general immigration law at the turn of the century.

The most basic form of law enforcement in the Puget Sound district, like many other points of entry, was the inspection of arriving passengers. Upon the arrival of foreigners by vessel or train, an immigrant inspector examined each of them with the passenger manifest and through personal interviews. The inspector would first check if a foreigner fell into the category of paupers and people likely to become public charges by assessing his physical appearance and the amount of money he possessed. This could be done with minimum verbal interactions between the inspector and the foreigner, and Japanese immigrants' frequent lack of proficiency in the English language provided few obstacles to inspectors' judgment. Determining whether the passenger was an excludable contract laborer, however, proved more difficult, since the officer had to ask questions about motives of migration, destination, and plans in the United States in order to establish the contract status of the suspicious immigrant. Inspectors were usually authorized to hire as an interpreter a local Japanese "who is honest, and will give correct answers to proper questions," but the availability of such a person varied, and the absence of an interpreter often prevented officials from excluding immigrants whose contract status seemed apparent to them but could not be verified without verbal inquiries. In one instance, an inspector had to bring three Japanese men whom he detained as potential contract laborers to New Whatcom from Blaine, for "there being

no interpreter here.” Even when an interpreter assisted inspection, officials routinely found it difficult to identify conclusive proof of contract from orally obtained information because of the simple fact that contract laborers familiar with US immigration laws skillfully concealed connections to their employers during the interview. Inspector William Archer noted that these immigrants “regulate their answers to questions . . . irrespective of the truth.”¹⁸

Various other administrative problems impeded inspectors’ efforts to examine passengers closely and exclude all immigrants whom they deemed ineligible for admission. Regardless of the availability of interpreters, officials constantly complained about the lack of personnel to adequately attend to Japanese immigration to Washington. Inspector Charles Snyder’s description of the port of Seattle captured the hectic situation that surrounded him and his colleagues: “When a big ship is in at Smith’s Cove [in the northern part of Elliot Bay, which Seattle faced] with 600 and the Vancouver and Victoria boats are piling them in at the rate of 50 to 100 per day and the telephone is ringing for me to examine a crew of discharged seamen while a message comes that a lot of Japs are being landed by small boats below Ballard [northwestern of Seattle], it is more than any four men can do.”¹⁹ These problems were aggravated by the widespread practice of illegal border crossing, an easy strategy to pursue given the geography of the Puget Sound region, which was made up of small islands, ragged peninsulas, and narrow trails along the land border.²⁰ Also, without a facility devoted to the inspection of arriving passengers, admission inspection in the Puget Sound district usually took place on a ship or a train, at a customs office, or in a room at the transportation company’s office, with passengers crammed together in a small space. This situation made the careful examination of passengers impracticable. The lack of facilities, one officer lamented, “led to a habit of conducting examinations in a more or less cursory or superficial manner, which does not meet the requirements of the law.”²¹ Despite its importance as a gatekeeper that regulated immigration to the United States from Asia and Canada, the Puget Sound district lacked sufficient administrative capacity for executing immigration law.²²

Partly because of the understaffing, border control in Washington State required available inspectors to engage in frequent and extensive travel. Inspectors had to run to the place where they enforced the law upon obtaining information about the arrival or discovery of immigrants as well as after receiving orders from the collector of customs. Officials also often had to travel to investigate violations of immigration law or to assist other inspectors in processing immigrants. During a two-week period in the fall of 1899, Inspec-

tor Samuel Walker went from Tacoma to Seattle to meet an arriving steamer and traveled to New Whatcom, a town at the border, to investigate the case of two Japanese immigrants arrested by local customs officers for illegal entry. Shortly after he left New Whatcom to process eleven deportable Japanese elsewhere, he received a deportation order for the two Japanese detained in New Whatcom. Immediately upon completing the expulsion of the eleven Japanese, Walker returned to New Whatcom, making the arrangements for their removal to Vancouver.²³ Enforcing immigration law also required long and irregular work hours. Explaining to a railroad company agent the duties of inspectors in his district, Collector of Customs F. D. Huestis stated that an officer “is obliged to *go at all times anywhere* he is ordered to investigate the entering of immigrants.” Indeed, Huestis simply instructed inspectors to “work nights and Sundays, if necessary.”²⁴

The difficulty and heavy workloads in maintaining sufficient vigilance over the vast land borders led Puget Sound officers to establish at their discretion informal arrangements that would supplement their border patrol activities. One such arrangement was to procure assistance from local residents. In the fall of 1900, local farmers saw three “pauper Japanese” approaching Lynden, a town five miles south of the border, “*directly* from the boundary line.” Based on an agreement that they had made with immigrant inspectors to assist their effort to “suppress a stealthy practice,” the farmers pursued the three Japanese and “after much difficulty succeeded in stopping them.” The farmers then delivered the migrants to the customs office in New Whatcom. Upon examination, an inspector found that none of the three had any money or immigration papers. As this case suggests, the collaboration of local residents played an integral part in the enforcement of immigration law at the Washington–British Columbia border. More importantly, the implementation of public policy in Washington allowed private citizens to assert a significant amount of police power against suspicious immigrants. Without solid evidence, local residents could deprive them of their liberty and forcibly bring them to immigrant inspectors.²⁵

Inspectors’ discretion affected immigration control more directly during the examination of arriving newcomers. The Immigration Act of 1893 provided that unless immigrants appeared to the officer “clearly and beyond doubt entitled to admission” during the preliminary examination on arrival, they would be detained for additional interrogation by a Board of Special Inquiry, which consisted of four inspectors. The immigrants in question were not allowed to land without a favorable decision made by at least three members of the board.²⁶ The interview by the board often set an inescapable trap against

foreigners deemed undesirable by the officials, such as Japanese and Mexican laborers. Under the Treasury Department's 1893 guidelines for immigration regulation, in order to avoid exclusion as paupers or people likely to become public charges, immigrants had to show thirty dollars in cash and prove their financial self-sufficiency in the United States. At the same time, however, immigrants who had already secured employment prior to departure would be denied landing for violating the contract labor law.²⁷

While the combination of the public charge and contract labor clauses generally allowed American officers to find flexible ways to prevent the landing of undesirable foreigners, the Board of Special Inquiry in the Puget Sound district also exercised discretion in a different way. In a five-hour examination session in late May 1900, the board interviewed seventy-one Japanese passengers who arrived in Tacoma from Yokohama on the *Glenogle*, deciding to send back fifty of them. One of these passengers, twenty-four-year-old E. Ogawa, possessed thirty dollars in cash. Nevertheless, from the information provided by a Japanese missionary acting as an interpreter and a board member, the board established the fact that "no more Japanese were needed on the railroads" at that time and that there were hundreds of unemployed Japanese in Seattle and Tacoma. In light of this situation, the board decided to exclude Ogawa as a person likely to become a public charge. Likewise, G. Tsuchiya, a laborer bound for San Francisco, carried with him thirty dollars and demonstrated no sign of a labor contract, but the board refused to land him because of his likelihood of becoming a public charge, based on the anticipation that "the great portion of his thirty dollars will be necessary to carry him to San Francisco."²⁸ During Board of Special Inquiry sessions, which were not open to the public, officials could rely on informal evidence such as unfounded hearsay and subjective presumptions of the immigrant's financial circumstances to determine the person as excludable. Puget Sound officials interpreted the situation of Japanese passengers who could otherwise pass the inspection in manipulative ways to apply the public charge clause to them. To exclude all suspicious Japanese with minimum procedures, one inspector even suggested to the collector of customs that their simple reluctance to answer questions during the interview should be taken as "prima facie cause for rejection."²⁹

Inspectors also used covert strategies for expediting the deportation of detained Japanese immigrants. Following earlier Chinese immigrants, Japanese in the late nineteenth century challenged American immigration law with habeas corpus proceedings. Used in the case of immigration, habeas corpus allowed the court to assess whether the government had a valid reason for

detaining the immigrant, which could lead to the person's release and landing in the United States.³⁰ Puget Sound officers found this strategy extremely annoying. In a letter to his colleague, Inspector Samuel Walker confessed that "I am experiencing trouble with 'Habeas Corpus' proceeding."³¹ Frustrated with foreigners' challenges to the immigration law, Walker schemed to deport detained immigrants quickly and confidentially before they petitioned the court for a writ of habeas corpus. In October 1897, for example, he requested Deputy Collector Henry Blackwood to send him an officer who would assist him in making arrangements for deporting seven Japanese "just as soon as possible to Yokohama." Walker added, "I make this request privately as the whole matter must be kept *quiet*" so that "habeas corpus proceedings may be avoided." Emphasizing the necessity of keeping this appointment unnoticed in the public, especially among the immigrants, Walker further asked that if his request of an assistant inspector was granted, "kindly inform me at once and I will advise him privately not to let it be known."³²

In the Puget Sound district, inspectors undertook a difficult task. They were required to oversee immigration with limited staff, inadequate facilities, and demanding workloads. It is essential to note that the officials handled these conditions without concrete instructions from the headquarters of the Bureau of Immigration in Washington, DC, which knew little about the situation of immigration control in the distant borderland region. To overcome the difficulties with law enforcement and reduce Japanese immigration most efficiently in the absence of supervision from the central office, inspectors in the borderland established a style of immigration control characterized by the extensive use of their discretion.

While curtailing Japanese immigrants' chances of landing, the predominance of discretion racialized the general immigration law. Unlawful border crossings were conducted not only by Asians but also by Europeans. As restrictions against illegal entry on the eastern part of the continent became tighter in the 1890s, an increasing number of Europeans traveled west. The farther west the point of entry they used, the weaker surveillance against them became. Law enforcement in the West focused on excluding nonwhite immigrants to the extent that white immigrants could enjoy virtual exemption from regulatory practices.³³ Randy William Widdis's study suggests that the overwhelming majority (87.8 percent) of migrants who moved to the states of Washington, Oregon, and Idaho from Canada between 1895 and 1924 were Canadians and Europeans. Less than 3 percent of these immigrants had their origins outside North America and Europe, and the Japanese belonged to this group. While the

Japanese might have caught officials' particular attention, therefore, the Puget Sound district witnessed a substantial traffic of white border crossers. Those who were potentially excludable at eastern borders tended to seek unlawful admission at western points of entry.³⁴ In light of this situation, the near absence of references to white immigrants in the correspondence of Puget Sound inspectors is striking. Collector of Customs Huestis declared that Japanese and white immigrants "all come in under the same law," but the inspectors' discussion of general immigration law focused almost exclusively on the Japanese.³⁵ Noting that few if any attempts to regulate white immigration seemed to have been made, Kornel Chang claims that Puget Sound officers treated it "with benign neglect and in some cases outright support," keeping the border porous and open to Europeans.³⁶ Inspectors' silence on unlawful European immigration also reflected their tendency to consider illegal European border crossers exceptions to the generally desirable group of European immigrants and even view all people of European descent, including those seeking unlawful admission, as future American citizens.³⁷ Left in the hands of local inspectors, the general immigration law therefore functioned to pursue the racist goal of excluding the Japanese without interrupting the flow of white immigration.

Corruption in Law Enforcement

Inspectors in the Puget Sound district sought every possible way to exclude and deport Japanese immigrants, but most officials still acted within the limits of their legal authority. In their aggressive pursuit of immigration restriction, however, some inspectors resorted to radical actions. The weakness of central supervisory authority and the strength of private sanction in the borderland in the milieu of prevalent anti-Asian sentiment easily corrupted law enforcement. Crucially, these inspectors' arbitrary practices unfolded in tandem with, and were facilitated by, the US Supreme Court's recognition of immigration law enforcers' nearly unlimited power over foreigners. The combination of the local factors and this national-level judicial culture enabled the extreme individual use of discretion, driving zealous inspectors to commit even unauthorized actions. An inspector named Henry C. Beach most dramatically embodied this aspect of immigration control in the Pacific Northwest borderland and represented the meanings of the plenary power doctrine at the sites of law enforcement.

Born in 1852 in New York to parents from New England, Beach grew up as a member of the northeastern elite, graduating from Princeton and Columbia. Relocating to Washington in 1889, Beach started a career as an immigrant

inspector in New Whatcom in 1900 at the age of forty-seven.³⁸ During his early days as an inspector, Beach performed his duties faithfully. Emphasizing his diligence, Beach reported to the collector of customs that since he had taken on the job of inspector, he had been “up early and late, have ridden in gurney, buggy, car and boat to prevent the passage of the Japanese through here.”³⁹

Despite his passion for restricting Japanese immigration, Beach’s reputation quickly deteriorated. By the spring of 1900, Beach established notoriety for his hostile attitude and harassment toward the Japanese among local residents. Driven by his almost obsessive desire to prevent Japanese immigration, as a newspaper correspondent in New Whatcom observed, Beach had “indiscriminately arrested incoming Japanese and thrown them into prison to await examination.”⁴⁰ In May a person named J. W. Grayson complained to the Treasury Department that Beach removed from the train a Japanese man who had been working for Grayson and was on his way back to Seattle from Vancouver. Even though Beach found him legally admissible to the United States, Grayson alleged, “his railroad ticket was taken from him and he was turned loose that afternoon, and had to walk to Seattle, one hundred miles.”⁴¹

For his part, Beach grew increasingly impatient with the formal procedures of immigration regulation. The Treasury Department instructed inspectors to secure “material facts in each case,” such as a written labor contract, before they moved to arrest potential illegal immigrants.⁴² Collector of Customs Huestis wrote to Beach that, although “there is not the least doubt in my mind” about the unlawful entry of Japanese contract laborers, “the question is first to get proof, and then we will act.”⁴³ From Beach’s perspective, this approach was too passive, and inspectors needed to take more drastic precautionary measures against illegal immigration. Dismissing the procedural limitation in law enforcement, Beach decided to restrict immigration in his own way. Although Canada had granted certain extraterritorial power to US immigration officials stationed at Canadian ports, no law allowed officers *in* the United States to go into Canada and apprehend migrants who had already been admitted to the dominion. Yet upon obtaining “numerous rumors about Japs traversing the surrounding country” in early April, Beach went to Vancouver at his own discretion, with the intention of capturing contract laborers before their migration to the United States. He arrested the captain of a tugboat and some Japanese on a streetcar and brought them to a magistrate in Vancouver. The aftermath of the arrest remains unknown, but Beach’s unauthorized action in a foreign city infuriated Huestis. “Who gave you any instruction to go to Vancouver,” the collector of customs demanded to know. In a strong tone, Huestis ordered

Beach to provide explanation for “what you were there for” and “when there why you attempted to make arrests on British soil.”⁴⁴

Beach’s misconduct reached an inexcusable level when the Bureau of Immigration discovered his abuse of alcohol and drugs while on duty. In late April it came to the bureau’s attention that Beach “has been getting drunk.” In addition to the excessive use of liquor, Huestis learned that Beach was also using “opium or some other similar drug.”⁴⁵ Sending the inspector a final warning, Huestis wrote to Beach that “you will make a good officer if you will let whiskey alone and other intoxicants.” He continued: “I am compelled to say that if you don’t I shall certainly recommend your separation from your service.”⁴⁶ Despite the warning from his supervisor, Beach’s drunkenness continued to affect his activities. In early June, he illegally arrested the same Japanese student for a third time, while drunk.⁴⁷

Beach’s actions ultimately led to death of a Japanese immigrant, Kashichi Fujii. On June 10, Beach visited a Japanese lodging house in Fairhaven with the suspicion that its owner, H. Makino, was “aiding and abetting the influx of Japs.” Upon examining thirty-seven residents, he arrested Fujii, a forty-five-year-old laborer from Japan, imprisoning him at the city jail in New Whatcom on the grounds that he had illegally entered the United States. Fujii, however, was a legal immigrant with a valid passport. After reviewing Fujii’s documents, Deputy Collector Robert Knox advised the jail officer of the illegality of the arrest. Consequently, the officer released Fujii on the afternoon of June 10. Unsatisfied with Fujii’s release, Beach rearrested him on the following day and again placed him in the jail. Two days later Fujii died of heart failure, which, the inspecting doctor confirmed, was caused by “mental worry and trouble for being imprisoned.” An investigation by the Treasury Department discovered that Beach was “in an intoxicated condition during all of the times mentioned.” Knox, who was at the jail at the time of Fujii’s imprisonment, testified that Beach was “so drunk he did not know what he was doing.” When Fujii’s Japanese friend demanded his release, the officer added, Beach threatened him with “very insulting language,” saying that he would be “the next victim.”⁴⁸

Beach was certainly not the first Puget Sound officer who raided immigrants’ residence. Inspectors in the district routinely, on their own judgment, practiced raids. In September 1898, for example, Inspectors Samuel Walker and F. D. Schuyler broke into a Japanese lodging house in the interior city of Puyallup, southeast of Tacoma, identifying a group of Japanese who had no documents that would prove their legal right to stay in the United States and “refused to talk to any account.”⁴⁹ Huestis must have found Beach’s raid on

Makino's lodging house itself acceptable as part of inspectors' regular border control activities. Nevertheless, the drunken officer's illegal arrest of Fujii, which resulted in the legal immigrant's death, exhausted Huestis's tolerance of Beach. After a monthlong investigation that involved Japanese diplomats, the Treasury Department terminated Beach's appointment on July 26 on the basis of Huestis's recommendation of dismissal "on account of his intemperate habits."⁵⁰

To understand the full implications of the affairs of Henry C. Beach for federal immigration policy in this period, one needs to recognize a critical development over it at the level of courts. American immigration regulation in the late nineteenth century was characterized by the rise of the plenary power doctrine. Emerging from a series of Supreme Court decisions over Asian immigrants, the doctrine held that Congress had the inherent power to exclude and deport aliens and that immigration policy devised by Congress, as a matter of national sovereignty, was beyond judicial review.⁵¹ This interpretation of federal policy maximized the discretionary power of inspectors, allowing them to exclude foreigners through the manipulative interpretation of the immigration law and informal evidence. From the standpoint of the courts, as the Supreme Court ruled in the case of *Nishimura Ekiu v. United States* (1892), no right to due process of law would be violated in the implementation of immigration policy, because "the decisions of executive or administrative officers, acting within powers expressly conferred by congress, are due process of law."⁵² It was in the context of this doctrine that the local inspectors' unrestrained actions against the Japanese unfolded in the Pacific Northwest. Officers used the general immigration law in arbitrary and abusive ways to exclude the Japanese, but most of the barred immigrants could not challenge the exclusion decisions, precisely because of constraints of the plenary power doctrine.

In analyzing the practical impact of the plenary power doctrine on immigrants, it is critical to realize that the ultimate removal of Beach did not necessarily signify restraint of official plenary power. After all, Beach's removal did not overturn the exclusion decisions he had made, and the affairs of Beach never led the bureau to reform the power of inspectors. As Huestis based the recommendation of Beach's removal on his alcoholism, the problem of Beach was not the nature or amount of power he asserted against foreigners but, in Huestis's words, his incapability of performing "effective work in this branch of the public service."⁵³ The bureau authorities might have been aware of possible diplomatic problems the uncivil and arbitrary manners of inspection could raise, but that concern seemed to carry minimal influence

on bureau officials' overall belief in plenary power. When a Japanese diplomat complained to Huestis that he had "substantial cause to believe" that "a very serious discrimination" against the Japanese operated in the district's border control, Huestis simply dismissed the complaint, noting that the Japanese consuls "make a fuss" every time Japanese immigrants were excluded "through their not understanding the law regarding the matter."⁵⁴ In *Yamataya v. Fisher* (1903), the Supreme Court retained its earlier endorsement of official plenary power attached to exclusion by declaring that "the order of an executive officer . . . was 'due process of law.'⁵⁵ Several years after the Beach affairs, a federal investigator identified a "tendency to allow personal prejudice to become too apparent" in border control in the Puget Sound district, noting that "some officers have gotten into trouble by enforcing the laws strictly." But again, the "trouble" generated no check on inspectors' authority.⁵⁶ When the borderland settings that allowed for significant local administrative autonomy, corrupt inspectors' discretion, and national judicial culture that recognized unfettered official power over foreigners came together, the result was a potent system of exclusion that minimized the rights and protection of immigrants. In the Pacific Northwest at the turn of the twentieth century, this aspect of general immigration policy became racialized, placing the Japanese in a particularly vulnerable position.

Official Discretion in Transnational Contexts

The exclusion of the Japanese took place in the broad context of anti-Asian racism in the Washington–British Columbia borderland. At the same moment American officials were excluding the Japanese, Canadian nativists in British Columbia repeatedly sought to restrict Japanese immigration through provincial laws.⁵⁷ On the ground level, the shared sense of white supremacy inspired American and Canadian workers to launch collective anti-Asian agitation, culminating in successive mob riots against Asian immigrants in Bellingham, Washington, and Vancouver in September 1907.⁵⁸ In fact, transnationalism characterized not only private citizens' anti-Asian activism but also the execution of regulatory immigration policy. In the case of public policy, the transnationalism emerged not exclusively from formal international cooperation but also from the discretion of US officials who were frustrated with the essential failure of such endeavors.

In the fall of 1893, as part of the effort to prevent the illegal entry of immigrants from Canada, the superintendent of immigration established the

so-called Canadian Agreement with Canadian transportation companies. The agreement allowed American officers to examine US-bound passengers arriving in Canadian ports and to determine their admissibility to the United States, just like those arriving in American ports. Transportation companies agreed not to land in Canada those found excludable by American inspectors stationed at Canadian ports. The agreement did not officially involve the Canadian government, but it informally approved the terms of the agreement. The Canadian Agreement thus established a transnational system of migration control, providing American officers with certain extraterritorial power in Canada.⁵⁹ The agreement, however, contained many loopholes. Immigrants could easily exempt themselves from American immigration law simply by declaring Canada their final destination upon arrival in a Canadian port. Under Canadian law, these immigrants could secure landing with minimal health screening and the payment of the capitation tax. Even more fundamentally, Canadian port officials and transportation companies lacked the motivation to assist the implementation of the agreement to the satisfaction of Americans.⁶⁰ The ineffectiveness of the Canadian Agreement greatly irritated American nativists in the Pacific Northwest. Pointing to the inadequacy of Canadians' contribution to restriction against "Japanese coolies," they lamented that "there is no formal obligation upon the British colonial authorities to prevent such people from crossing the line."⁶¹ The idea of binational regulation of Japanese immigration failed to fulfill its promises.

To best understand the reason for the unsuccessful outcome of the Canadian Agreement, one needs to see the situations on the Canadian side. Given the intense hostility to Asian immigrants in British Columbia that the Vancouver riot of 1907 would manifest, the Canadian Agreement, which would reduce their chance of landing in Canada if enforced strictly, could have drawn British Columbians' endorsement. Nevertheless, Canada's complicated place in British imperial politics prevented an active commitment to implementing the agreement. The British Columbia provincial legislature had repeatedly asked the federal government in Ottawa to introduce laws for discouraging Japanese immigration and passed restrictive laws of its own design, including one that prohibited the landing of foreigners unable to read and write in "the characters of some language of Europe." British Columbia's legislative efforts, however, ran afoul of the British Empire's diplomatic interests in maintaining friendly relationships with Japan. As Japan's military might and commercial power increased toward the end of the nineteenth century, Britain negotiated several treaties with the nation. British Columbia's anti-Japanese measures thus

conflicted with the imperial government's diplomatic agenda for Japan. Being a British dominion, Canada was subjected to the imperial government's overall legislative supremacy. As a result, the federal government in Ottawa had to invalidate the anti-Japanese provincial laws. Canadian prime minister Wilfrid Laurier went so far as to declare that British Columbians should make "sacrifice for the sake of the mother country and for the sake of a united empire." British Columbians believed that Ottawa ignored and even abandoned their province's sovereignty because of "imperial reasons." As a British Columbian newspaper put it, "Ottawa, without a sign or a pang of remorse," would offer British Columbia as "a tribute to the Japanese."⁶²

The imperial politics that practically deprived Canada of territorial sovereignty made Canadian authorities extremely sensitive to any possible further reduction of Canada's control over the admission of foreigners. Indeed, when Superintendent of Immigration Herman Stump met with Canadian officials in Ottawa to discuss the Canadian Agreement, they ultimately withdrew from the agreement because of their concerns about "permitting United States officials to exercise their functions" within Canadian territory and of ordinary citizens' protests against such an arrangement. As a result, Stump ended up negotiating the agreement with railroad companies instead of the Canadian government.⁶³ As the *Montreal Daily Witness* concluded that the negotiation "decide[d] to favor the United States," the Canadian Agreement did not enjoy a positive reception from Canadian officials and citizens. Stump insisted that Canadians "will reap benefit" from the agreement, but given British Columbians' particularly strong sense of injustice against their territorial sovereignty, officials in the province were highly skeptical. Promoting their own provincial legislation against Asian immigration, rather than assisting US policy, remained the priority for British Columbian officials.⁶⁴

The failure of the Canadian Agreement led American inspectors to develop their own versions of transnational surveillance of Japanese immigration. First, officers stationed in Canada began to extend the scope of their activities from inspecting US-bound passengers at ports to restricting the illegal border crossing of those already in Canada. David Healy, an American inspector in Vancouver, for example, stopped the departure of forty-six Japanese contract laborers for Tacoma, after having been "on the lookout for them for some time." Legal details of the incident remain unknown. Given that the Canadian Agreement only allowed Healy to regulate landing at the port, he might have simply checked their immigration documents and prevented their departure with the threat of arrest in the United States rather than formally arrested them

in Vancouver.⁶⁵ The point, however, is that an American officer in Canada at his discretion stretched his activities beyond the provisions of the Canadian Agreement. Inspectors south of the border were not the only US officers catching illegal migrants. The limitation of the formal international effort to restrict unlawful migration gave rise to a system of border patrol orchestrated by US officers in *both* the United States and Canada.

American inspectors also moved between Washington State and British Columbia on their own judgment to assist law enforcement in each location. When a group of 181 Japanese laborers suspected of immigrating under contract arrived in Tacoma in March 1899, Inspector Samuel Walker detained all of them for examination. To expedite the exclusion process, Walker secured an extra hand by sending for “an experienced and efficient officer” stationed in Vancouver “at my solicitation.”⁶⁶ Officials made reverse arrangements as well. On another occasion, Walker received a letter from an officer in Victoria stating that “it would be better to have me come on to Victoria.” Given that both officials were aware of the arrival in Victoria in several days of a steamship that carried immigrant passengers, this request must have been intended to reinforce the landing inspection of those subject to American immigration law with Walker’s aid and to better prevent their illegal entry into the United States.⁶⁷ In this way, to strengthen border control, American officials themselves became border crossers, moving back and forth between the United States and Canada.

The borderland environment typified by the weakness of formal police authority and the strength of private surveillance sparked violent anti-Asian riots across Washington and British Columbia in 1907. The same features also drove US immigration officials in the region to act transnationally—albeit unilaterally—at their discretion for the tighter restriction of Japanese immigration, when Canadian officials and transportation companies turned out to be unreliable partners for border control. If transnationalism characterized grassroots attempts to expel Asian immigrants from the Pacific Northwest, the implementation of public policy also unfolded across national boundaries, enhancing the racist force to make the region a white man’s land.

The examination of the quotidian activities of inspectors in the Pacific Northwest illuminates how racism was structurally enabled in general immigration policy by a host of practices and circumstances at the local, national, and transnational levels, producing a harsh system of restricting the immigration of non-Chinese Asians. In stark contrast, Europeans enjoyed virtual exemption

from regulatory measures. While racism was expressly incorporated into federal Chinese exclusion laws, official discretion injected racism into the practical working of general immigration law whose provisions were technically color-blind. Scholars have acknowledged the disproportionate impact of general legislation on non-Europeans in twentieth-century American immigration control, but few have investigated the procedural origins of that aspect of the policy beyond the broad understanding that it was built on the existing structure of American racism. Emerging in the period when the United States had just begun to process non-Chinese Asians substantively with its nascent general immigration policy, Puget Sound inspectors' response to Japanese immigration in the final decade of the nineteenth century set important precedents for the racialized use of the general law against other non-European immigrants in the twentieth century.

This essay's sociolegal analysis of the quotidian implementation of the law expands our understanding of the nature of immigration control at the US–Canada border. Scholars have tended to describe immigration control at the US–Canada border as relatively lenient. Immigration regulation there was once characterized by the concept of border diplomacy. Represented by the Canadian Agreement, the concept emphasized binational collaboration in immigration control based on “a historically amicable diplomatic relationship [between the United States and Canada] and a shared antipathy” to Asian immigration. In contrast to Canada, Mexico proved reluctant to form similar systems of collective surveillance because of its want of foreign immigrant labor. As a result, American officials regulated the southern border through aggressive policing and deterrence, which included border patrol, raid, and deportation.⁶⁸ Recent studies challenge this dichotomous view between diplomacy in the north and policing in the south by demonstrating that harsh policing was also an integral part of northern border control as manifested by white residents' violent pursuit of driving Asians out of their communities.⁶⁹

Building on the recent studies' skepticism about border diplomacy, this essay has reappraised the significance of public policy for immigration control at the US–Canada border by exposing the ground-level realities of its enforcement. The examination of Puget Sound inspectors' activities demonstrates that the discretionary and arbitrary implementation of general immigration law—facilitated by the plenary power doctrine—shaped border control at the Washington–British Columbia region. Many Japanese immigrants began attempting to enter the United States through Mexico in the early twentieth century. They adopted this strategy precisely because of the intensity of bor-

der control in the north.⁷⁰ And this intensity originated not only from well-chronicled, private anti-Asian violence or the administrative expansion of the regulatory system but perhaps more decisively and directly from local public officials' severe manners of law enforcement through vigorous entry regulation, border patrol, raid, and removal. Far from being a region where immigration regulation was lenient or where the demarcation of national boundaries depended on grassroots activism or diplomatic agreements, the US–Canada border was an area of the aggressive and often coercive execution of regulatory immigration laws, comparable to the US–Mexico border. The analysis of the enforcement of general immigration law in the Pacific Northwest illuminates the region's critical place in the formation of the immigration control regime in the United States.

Notes

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19. Charles W. Snyder to F. D. Huestis, May 1, 1900, box 107, RG 36-Seattle.
20. Chang, "Enforcing Transnational White Solidarity," 676; Lee, *At America's Gates*, 154.
21. William W. Archer to F. D. Huestis, March 18, 1899, box 106, RG 36-Seattle.
22. The enforcement of Chinese exclusion laws suffered similar administrative problems. See Lew-Williams, "Before Restriction Became Exclusion," 39–46.
23. Samuel Walker to Henry Blackwood, January 20, 1899, box 106, RG 36-Seattle.
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