A "Practically American" Canadian Woman Confronts a United States Citizen-Only Hiring Law: Katharine Short and the California Alien Teachers Controversy of 1915

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Introduction

In mid-February 1915, Katharine Short was shocked to learn that she would soon lose her job. California Attorney General Ulysses S. Webb had just announced that all school boards across the Golden State were required to enforce a long-forgotten state law banning non-citizens from all forms of state, county, and local public employment. Short, a Canadian immigrant, was among hundreds of—possibly more than 1,000—non-citizen schoolteachers in California whose livelihoods were thrown into jeopardy. She was among the few especially unlucky teachers who were even denied outstanding pay by local officials. In response, Short launched a multi-pronged campaign to obtain her salary and alter the law that had ensnared her, appealing to Canadian authorities to defend her contractual rights, challenging her

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local school board and district attorney to issue her salary, lobbying state lawmakers, and helping to shape news coverage of this escalating conflict.[1]

Although this dispute would burgeon into a particularly heated international controversy, its context and content were far from unique. Anti-alien hiring laws in public and/or publicly funded forms of employment could be found in at least ten states by 1915.[2] Such laws—alongside nativist occupational and professional licensure statutes—became even more pervasive in the early-to-mid twentieth century. Nearly 500 anti-alien hiring and licensure laws were in force in states across the country by 1946.[3] Non-citizen schoolteachers—subject to both public employment and professional licensure laws—were doubly vulnerable to such barriers.[4]

Like Short, many other non-citizens and their supporters contested proposed and enacted anti-alien public employment and licensure policies from the late-nineteenth to the mid-twentieth centuries by lobbying lawmakers, launching court challenges, seeking diplomatic assistance, and/or appealing to the press. Sometimes those efforts proved successful. But anti-alien public and publicly funded hiring laws and professional licensure bills frequently sailed through state legislatures with little to no news coverage.[5] The courts, especially from the mid-1910s to the late 1960s, generally upheld their constitutionality.[6] And non-citizen workers often struggled to rally popular opinion to their side, particularly during times of high unemployment.[7]

As we shall see, Katharine Short overcame those obstacles to emerge victorious in her campaign. In the process, she saved her and hundreds of other non-citizen teachers' access to work and enabled herself and a few other

1 Katharine Short to William Short, February 28, 1915. Library and Archives Canada/Bibliothèque et Archives Canada, Ottawa, Ontario. RG 25 Vol. 1161, File 671, "Employment of Aliens in California – State Law" (hereafter LAC/BAC, "Employment of Aliens in California"); and Hiram Johnson to William Jennings Bryan, April 6, 1915, 2–3. Bancroft Library and Archives, Berkeley, California. Hiram Johnson Papers, MSS C-B 581 Part II, Box 3, "Letters from Johnson, April 1914–July 1915" (hereafter BANC, "Letters from Johnson").

2 See subsequent footnotes for relevant citations.

3 Milton Konvitz counted 495 such state policies in force in 1946. See Milton Konvitz, *The Alien and the Asiatic in American Law* (Ithaca, NY: Cornell University Press, 1946), 208–9.

4 Alexandra Filindra, "E Pluribus Unum? Federalism, Immigration and the Role of the American States" (PhD diss., Rutgers University, 2009), 128–52; and Jessye Leigh Scott, "Alien Teachers: Suspect Class or Subversive Influence," *Mercer Law Review* 31 (1980): 815–24.

5 Konvitz, *The Alien and the Asiatic*, 172.

6 Michael Cornelius Kelly, "A Wavering Course: United States Supreme Court Treatment of State Laws Regarding Aliens in the Twentieth Century," *Georgetown Immigration Law Journal* 25 (2011): 701–40.

7 Harold Fields, "Where Shall the Alien Work?" *Social Forces* 12 (1933): 213–21.

instructors to receive their pay. But as we shall also see, not all would-be non-citizen public employees in California would benefit from those efforts.

Although this article represents the first case study of the California Alien Teachers Controversy of 1915, it is far from the first to examine anti-alien hiring and licensure policies in United States legal, political, and socioeconomic history.[8] Other immigration scholars have incorporated these restrictions in their studies of nativist discrimination in the late-nineteenth to the mid-twentieth century United States political economy.[9] Asian-American historians have especially explored the power of anti-alien land laws to constrict the economic rights of and to further marginalize East and South Asian immigrants as "aliens ineligible to citizenship" under federal naturalization laws.[10] And legal scholars have labored mightily to identify anti-alien hiring and licensure laws and to categorize court rulings on their constitutionality.[11]

Despite their breadth, such laws generally occupy a marginal role in most scholarship on immigrant socioeconomic incorporation, labor conflicts, nativist politics, and citizenship policies in late-nineteenth to mid-twentieth-century United States history.[12] In fact, several leading scholars who *do* analyze their impact find that many of these statutes—

8 This author briefly addresses this dispute in his dissertation "Making Modern American Citizenship: Citizens, Aliens, and Rights, 1865–1965" (PhD diss., University of California, Berkeley, 2018), which he is currently revising into a monograph. In solidarity with recent practices to eschew the use of the term "alien" as a noun to describe individuals or groups of people, this article instead employs "non-citizen" when possible. The text retains the use of "alien," however, within quotations, as an adjective to describe alienage law, and as the title of the controversy itself.

9 Key works include: Mary Anne Thatcher, *Immigrants and the 1930s: Ethnicity and Alienage in Depression and On-Coming War* (New York: Garland, 1990); Irene Bloemraad, "Citizenship Lessons from the Past: The Contours of Immigrant Naturalization in the Early 20th Century," *Social Science Quarterly* 87 (2006): 927–953; and Peter Catron, "The Citizenship Advantage: Immigrant Socioeconomic Attainment in the Age of Mass Migration," *American Journal of Sociology* 124 (2019): 999–1042.

10 See, among many others, Karen Isaksen Leonard, *Making Ethnic Choices: California's Punjabi Mexican Americans* (Philadelphia: Temple University Press, 1992); and Masao Suzuki, "Important or Impotent? Taking Another Look at the 1920 California Alien Land Law," *Journal of Economic History* 64 (2004): 125–43.

11 See, among others: David Fellman, "The Alien's Right to Work," *Minnesota Law Review* 22 (1938): 137–76; Konvitz, *The Alien and the Asiatic*; David Carliner, *The Rights of Aliens: The Basic ACLU Guide to an Alien's Rights* (New York: Avon Books, 1977); and Hiroshi Motomura, *Americans in Waiting: The Lost Story of Immigration and Citizenship in the United States* (New York: Oxford University Press, 2006); and Kelly, "Wavering Course."

12 As Kunal Parker argues, United States historians rarely examine "the way citizenship has functioned 'negatively' vis-à-vis resident aliens." Kunal Parker, *Making Foreigners:*

especially anti-alien public and publicly funded employment laws—were often ineffectual, ignored, or of marginal importance compared with other, especially racist, forms of economic prejudice. Historians John Higham and Gwendolyn Mink have highlighted how Gilded Age and early Progressive Era state anti-alien hiring laws were often selectively enforced and sometimes struck down by lower courts.[13] And sociologist Cybelle Fox has demonstrated how early-to-mid twentieth century federal anti-alien economic policies were often tied to or even subsumed by overtly racist discrimination, irrespective of formal citizenship status.[14]

This article builds on these scholars' conclusions while seeking to reframe how we measure the relative meaning and weight of state anti-alien hiring and licensure laws, emphasizing how battles over their passage and implementation were informed by and intersected with other practices of incorporation, subordination, or exclusion from the American political economy. In so doing, it locates the California Alien Teachers Controversy at the heart of three major overlapping transformations in the political development, law, and political history of United States citizenship and citizenship rights from the late-nineteenth to the mid-twentieth centuries.

First, the dispute testifies to the continued—and growing—power and powers of state governments to shape the lives and livelihoods of immigrants from the late-nineteenth to the mid-twentieth centuries, an era long characterized by historians as one of diminishing state authority in matters of immigration. Although state governments were indeed losing power to federal plenary authority to shape and administer exit-entry immigration policy, at that same time they were increasingly becoming, as political scientist Alexandra Filindra describes, powerful "independent legislative actors often supported by federal courts in their exclusionary goals" in the domain of alienage law.[15] And those "exclusionary goals" were becoming more and more tangible in the lives of many immigrants from the late-nineteenth to the mid-twentieth centuries. After all, nativist hiring laws and anti-alien licensure statutes were becoming more pervasive just as public works jobs, other forms of public employment, and the

Immigration and Citizenship Law in America, 1600–2000 (New York: Cambridge University Press, 2015), 233.

13 John Higham, *Strangers in the Land: Patterns of American Nativism, 1860–1925* (New York: Atheneum, 1963), see especially: 46–47, 72–73, 183–84; and Gwendolyn Mink, *Old Labor and New Immigrants in American Political Development: Union, Party, and State, 1875–1920* (Ithaca, NY: Cornell University Press, 1986), see especially 123.

14 Cybelle Fox, *Three Worlds of Relief: Race, Immigration, and the American Welfare State from the Progressive Era to the New Deal* (Princeton: Princeton University Press, 2012), 156–87, 214–49.

15 Filindra, "E Pluribus Unum?" 30.

professions were growing in scope in the American economy.[16] Such laws, in turn, actively reshaped the relative meaning and weight of exclusive de jure United States citizenship rights, creating disparate regimes of citizen-only rights encountered by immigrants on a state-by-state basis long into the mid-twentieth century.

Second, the controversy illustrates both the rhetorical strengths and the courtroom limits of "right to contract" arguments in battles over state anti-alien hiring and licensure policies in the early-to-mid twentieth century. Katharine Short and her allies repeatedly argued that school boards should honor employment contracts with non-citizen schoolteachers and pay their salaries. This contractual rights rhetoric echoed previous—often successful—immigrant rights litigation strategies of the late-nineteenth and early-twentieth centuries.[17] It also aligned with the dominant ideology of early twentieth-century American jurisprudence. After all, *Lochner*-era courts routinely struck down state labor statutes—from minimum wage policies to maximum hour laws—as violations of contract rights under the federal constitution.[18] Although this "right to contract" rhetoric greatly strengthened Short's diplomatic, political, and public relations efforts, it was not sufficient as a legal strategy in 1915. Later that same year, in litigation arising from a separate anti-alien hiring dispute in New York, the United States Supreme Court would rule that anti-alien public and publicly funded employment laws fell within the purview of states' police powers.[19] Therefore, Short deftly marshalled *Lochner*-era rhetoric about contractual rights and obligations to advance her cause, but wisely did so outside of *Lochner*-era courtrooms.

Third, the conflict demonstrates how the inconsistent implementation of anti-alien public and publicly funded employment laws impacted

16 See, among many others, Jon Teaford, *The Unheralded Triumph: City Government in America, 1870–1900* (Baltimore: Johns Hopkins University Press, 1984); Steven Erie, *Rainbow's End: Irish-Americans and the Dilemmas of Urban Machine Politics, 1840–1985* (Berkeley: University of California Press, 1988); and Marc T. Law and Sukkoo Kim, "Specialization and Regulation: The Rise of Professionals and the Emergence of Occupational Licensing Regulation," *Journal of Economic History* 65 (2005): 723–56.

17 Thomas Wuil Joo, "New 'Conspiracy Theory' of the Fourteenth Amendment: Nineteenth Century Chinese Civil Rights Cases and the Development of Substantive Due Process Jurisprudence," *University of San Francisco Law Review* 29 (1995): 353–88; and Charles J. McClain, *In Search of Equality: The Chinese Struggle Against Discrimination in Nineteenth-Century America* (Berkeley: University of California Press, 1994).

18 William E. Forbath, *Law and the Shaping of the American Labor Movement* (Cambridge, MA: Harvard University Press, 1991); and Amy Dru Stanley, *From Bondage to Contract: Wage Labor, Marriage, and the Market in the Age of Slave Emancipation* (New York: Cambridge University Press, 1998).

19 Kelly, "Wavering Course," 704–8; and Motomura, *Americans in Waiting*, 68–70.

immigrant populations differently owing to inequalities of race, gender, and class. Those disparate experiences, in turn, shaped the less-than-inclusive strategies and aims of Katharine Short during her campaign. California's anti-alien public employment law, like its counterparts in other states, had been sporadically enforced in good economic times. But amid a recession-induced unemployment crisis in the winter of 1914–15, state and local authorities often responded to rising blue-collar nativist pressure by strictly implementing such hitherto "dead letter" laws. Much like contemporaneous immigrant rights advocates who warned of the harm that federal immigration restriction legislation would inflict on immigrant families and the American economy,[20] Katharine Short mobilized outrage among United States and Canadian publics, diplomats, and lawmakers alike over the abrupt and unexpected harm wrought by the California law to immigrant workers, and its dangers to the state's economy. Short also flexibly embraced her privilege as a middle-class, well-connected, white Canadian woman to bolster her cause, framing the controversy as a gross national outrage in Canada, while helping to create the image of those harmed by the law in the United States as mostly, in the words of one California state senator, "practically American" Canadian women.[21] This strategy—not an option for most immigrants who encountered anti-alien employment restrictions in the early-to-mid twentieth century—was successful for Short.[22] California lawmakers altered the state's anti-alien public employment policies in May 1915 to allow most—although not all—non-citizen teachers to continue to work in the state.

Other, more vulnerable, immigrants were less fortunate. Lawmakers did not adopt exemptions for many other would-be non-citizen public workers

20 See Maddalena Marinari, *Unwanted: Italian and Jewish Mobilization against Restrictive Immigration Laws, 1882–1965* (Chapel Hill: University of North Carolina Press, 2020).

21 "Would Relieve Alien Teachers," *Los Angeles Times*, March 28, 1915, I7.

22 Anglo Canadians were universally understood to be white by law and in practice in United States society in the early-to-mid twentieth century. By contrast, as sociologists Cybelle Fox and Irene Bloemraad emphasize, Mexican immigrants, then disproportionately likely to encounter blue-collar anti-alien public employment restrictions in California, were widely viewed as non-white despite their status as white under federal nationality law. See Cybelle Fox and Irene Bloemraad, "Beyond 'White by Law': Explaining the Gulf in Citizenship Acquisition between Mexican and European Immigrants, 1930," *Social Forces* 94 (2015): 181–207; Meanwhile, although Italian immigrant men, inordinately likely to encounter contemporaneous blue-collar nativist hiring laws on the East Coast and in the Midwest, were far more frequently recognized as "white by law," they were rarely, if ever, viewed as "practically American," like Short. See, among many others, Stefano Luconi, "Black Dagoes? Italian Immigrants' Racial Status in the United States: An Ecological View," *Journal of Transatlantic Studies* 14 (2016): 188–99.

in the state. In fact, some—mostly non-white, working-class—municipal employees in California were even singled out for firing amid growing news coverage of the teachers' controversy. Unlike Short, they were not viewed as "practically American." No legislation was forthcoming to save their jobs. In the pages that follow, this article: (1) identifies the legal and political context behind the California Alien Teachers Controversy, (2) uncovers and recounts Katharine Short's campaign against the state's citizen-only public schoolteacher policy, and (3) analyzes the disparate impact of her efforts on the lives and livelihoods of fellow immigrants in California.

Context

Anti-alien employment and licensure laws had a deep and ugly history in California long before Katharine Short abruptly encountered the state's citizen-only public schoolteacher policy in 1915. Throughout the mid-to-late nineteenth-century, blue-collar nativists and racist labor leaders in California employed white supremacist rhetoric and physical violence to attack Chinese immigrants—mostly male, single, and working-class—as a threat to the wages and livelihoods of "white workingmen." These anti-Chinese forces routinely lobbied for—and often obtained the passage of—state and local laws in California barring Chinese immigrants from employment as miners, laundry owners, and public works laborers, among other lines of work, often on the explicit basis of race. Chinese litigants successfully challenged many of these laws in court as violations of their equal protection rights under the federal constitution. In response, lawmakers in California increasingly restricted the economic rights of Chinese immigrants—and other East and South Asian immigrants—on the basis of their "ineligibility to citizenship," a racist pretext that Gilded Age and Progressive Era judges often found acceptable.[23]

Elsewhere in the country, nativists repackaged and reformulated anti-Chinese rhetoric during the 1880s and 1890s to attack growing rates of blue-collar, often seasonal, labor migration among other immigrant populations, especially southern Italian men.[24] Claiming that white unionized,

23 See, among many others, Alexander Saxton, *The Indispensable Enemy: Labor and the Anti-Chinese Movement in California* (Berkeley: University of California Press, 1971); Mink, *Old Labor and New Immigrants*, 71–112; Joo, "New Conspiracy Theory"; McClain, *In Search of Equality*; Motomura, *Americans in Waiting*, 63–95; and Beth Lew-Williams, *The Chinese Must Go: Violence, Exclusion, and the Making of the Alien in America* (Cambridge, MA: Harvard University Press, 2018).

24 On these comparisons in immigration restrictionist politics, see especially Erika Lee, "The Chinese Exclusion Example: Race, Immigration, and American Gatekeeping, 1882–1924," *Journal of American Ethnic History* 21 (2002): 36–62. On these analogies in

skilled workers needed protection from temporary, non-unionized, "common labor" immigrants, building trades union leaders routinely lobbied lawmakers to restrict hiring on public construction jobs to U.S. citizens. In 1889, lawmakers in Illinois, Idaho, and Wyoming adopted policies restricting hiring on state and local public works projects to U.S. citizens and immigrants possessing "first papers" (non-citizens who had filed declarations of intent to become citizens in court).[25] That same year, lawmakers in New York similarly enacted legislation conferring preference for state and local public works jobs to (state) citizens.[26]

Blue-collar nativist demands for anti-alien public works hiring laws grew even louder during and shortly after the Depression of the mid-1890s. Lawmakers in New York (1894), Pennsylvania (1895), and New Jersey (1899) restricted employment on state and locally funded public works jobs to U.S. citizens.[27] Massachusetts lawmakers likewise adopted several statutes privileging the hiring of (variously state or United States) citizens on such projects in 1895 and 1896.[28] Anti-alien public works hiring legislation was also often debated—and sometimes only narrowly defeated—at the federal level in the late-nineteenth century.[29]

A similar story was unfolding in California state politics. Nativist and building trades union-backed lawmakers in the Golden State had unsuccessfully sought the passage of numerous bills banning the hiring of non-citizens from public and publicly funded employment throughout the late

racialized labor politics, see, among others, Donna Gabaccia, "The 'Yellow Peril' and the 'Chinese of Europe': Global Perspectives on Race and Labor, 1815–1930," in *Migration, Migration History, History: Old Paradigms and New Perspectives*, ed. Leo Lucassen and Jan Lucassen (New York: Peter Lang, 1997), 177–96; and Luconi, "Black Dagoes?".

25 On building trades union support for one such law in Illinois, see, among others, Rudolph Vecoli, "Chicago's Italians Prior to World War I: A Study of Their Social and Economic Adjustment" (Ph.D. diss., University of Wisconsin, Madison, 1963), 417–22; For references to these three states' laws, see Higham, *Strangers in the Land*, 46; Mink, *Old Labor and New Immigrants*, 123; and Amy Bridges, *Democratic Beginnings: Founding the Western States* (Lawrence: University Press of Kansas, 2015), 96–97.

26 Ch. 380 (1889) New York – 112nd Legislature: 508.

27 On the New York and Pennsylvania laws, see Higham, *Strangers in the Land*, 72–73; and Mink, *Old Labor and New Immigrants*, 123. See also Ch. 202 (1899) New Jersey Legislature – 123rd Session: 524–25.

28 Act 347 (1895) – Massachusetts General Court: 389–90; Act 488 (1895) – Massachusetts General Court: 565–82; and Act 494 (1896) – Massachusetts General Court: 492.

29 Higham, *Strangers in the Land*, 46; Mark Wyman, *Round-Trip to America: The Immigrants Return to Europe, 1880–1930* (Ithaca, NY: Cornell University Press, 1993), 103–4; and Paul Moses, *An Unlikely Union: The Love-Hate Story of New York's Irish and Italians* (New York University Press, 2015), 73–81.

1890s.[30] In 1901, San Francisco Assembly Member John Hourigan proposed a similar bill that would restrict hiring in public positions (but not on publicly funded forms of private employment) to U.S. citizens. Hourigan's bill proved popular with his colleagues. Only one state lawmaker, Assembly Member F.P. Feliz of Monterey, dared vote against it.[31] Hourigan's law, enacted in March 1901, forbade any local, county, or state official from hiring as a public employee "any person to perform any duties whatsoever, except such person be a native-born or naturalized citizen of the United States." It further barred the payment of wages from any local, county, or state treasury to any public employee who was not a U.S. citizen.[32]

But the 1901 California law, like its peers in other states, proved difficult to implement in practice. As few native-born white, male U.S. citizens actively sought employment on backbreaking, low-paid, public works jobs, blue-collar nativist state hiring laws were often ignored or openly flouted by contractors and local authorities alike.[33] Although building trades unions sometimes protested violations of these statutes, they often did so as a means of exerting leverage with contractors in the context of broader labor disputes. Rarely was the strict implementation of an anti-alien public works hiring law the central focus of their efforts.[34] Moreover, state courts—including those in New York (1895)[35] and

30 Failed anti-alien public hiring bills included, AB 575: *Journal of the Assembly, 32nd Session, State of California* (Sacramento: State Printing Office, 1897), 225; and AB 393: *Journal of the Senate, 33rd Session, State of California* (Sacramento: State Printing Office, 1899), 1113. On these and other anti-alien hiring proposals (and labor support for them) see "No Alien May Do Public Work: The California Labor Convention Favors American Citizens," *San Francisco Call*, October 26, 1896, 12; "Labor Convention Adjourns Sine Die," *San Francisco Chronicle*, March 22, 1897, 11; and "None But Citizens Can Get Work," *San Francisco Call*, January 22, 1899, 3–4.

31 *Journal of the Assembly, 34th Session, State of California* (Sacramento: State Printing Office, 1901), 597; and *Journal of the Senate, 34th Session, State of California* (Sacramento: State Printing Office, 1901), 1050. See also: "Governor Gage Exercises the Rights of His Office," *San Jose Mercury News*, February 21, 1901, 1; and "Bills Made Law by Governor Gage," *Los Angeles Herald,* March 29, 1901, 4.

32 Ch. 185 (1901) California Legislature – 34th Session: 589.

33 See, as examples, "Work on County Roads: The Contracting Firms Are Obliged to Employ Aliens," *Pittsburgh Gazette*, October 15, 1897, 5; and "City Contract Labor Sixty Per Cent. Alien," *New York Times*, April 18, 1905, 6.

34 See especially the work of Robert B. Ross, "Scales and Skills of Monopoly Power: Labor Geographies of the 1890–1891 Chicago Carpenters' Strike," *Antipode* 43 (2011): 1281–304.

35 *People v. Warren* 13 Misc. 615, 34 N.Y.S. 942 (1895).

Illinois (1903)[36]—sometimes struck down such laws as violations of contract rights guaranteed under state and federal constitutions and/or foreign treaty obligations. For these reasons, labor leaders, newspaper commentators, and politicians alike often described state anti-alien public and publicly funded employment laws as "forgotten,"[37] "long-dormant,"[38] and "dead letter[s]."[39]

But immigrant workers did not always encounter these statutes as moribund. Non-citizen laborers could be—and sometimes were—fired following inquiries into alleged violations of such laws.[40] Anti-alien public and publicly funded hiring laws also imposed significant financial costs on the working-class immigrant laborers who had to file "first" or "final" naturalization papers to obtain or retain public works jobs in at least ten states by 1915.[41] That is, if they were eligible to file that paperwork. Those petitioning for "final" citizenship papers were required to have resided in the United States for at least 5 years (and their "first papers" had to be at least 2 years old) in the late-nineteenth and early-twentieth centuries. Many blue-collar laborers had not lived in the country that long or did not possess "first papers" when they encountered citizen-only public and/or publicly funded employment laws. East and South Asian immigrants, as "aliens ineligible to citizenship," were permanently barred from such jobs by both citizen-only *and* "first papers"-immigrant state hiring laws.[42]

Anti-alien public and publicly funded hiring laws also intersected with other, better-known, Progressive Era nativist conflicts. In 1913, over the vociferous objections of Japanese immigrants and diplomats, California became the first of several Western states to ban "aliens ineligible to

36 *City of Chicago v. Hulbert* 205 Ill. 346, 68 N.E. 786 (1903) in: Lindley Clark, "Labor Laws Declared Unconstitutional," *Bulletin of the Bureau of Labor* 21 (1910): 933.

37 "Canadian Teachers Classed as Aliens," *Ottawa Citizen*, March 15, 1915, 6.

38 "Alien Law Decision Halts New Subways," *New York Times*, February 27, 1915, 5.

39 New York Bureau of Statistics of Labor, *Thirteenth Annual Report of the for the Year 1895,* Vol. 1 (Albany: Wynkoop Hallenbeck Crawford, Co., State Printers, 1896), 543; and "Water Board Blamed," *Boston Herald*, July 11, 1900, 16.

40 This author explores the contested implementation of these laws in other states in two chapters of his longer book manuscript project, tentatively entitled, *Citizenship Rights or Citizen-Only Rights? Nativist Politics, Alienage Law, and the Invention of American Citizenship Rights, 1865–1965.* For one example of layoffs arising from the administration of a state anti-alien public works hiring law, see "Cannot Employ Aliens," *Chicago Daily Tribune*, March 12, 1891, 6.

41 Louisiana and Arizona joined the ranks of these eight other states in 1908 and 1912, respectively. See Act. 271 (1908) Louisiana – General Assembly: 398–99; and Ch. 66 (1912) Arizona – 1st State Legislature, Special Session: 188–94.

42 On the history of "first papers" and their denial to East and South Asian immigrants, see especially Motomura, *Americans in Waiting*.

citizenship" from land ownership.[43] The following autumn, during a time of war in Mexico and Europe and amid a national unemployment crisis during the Recession of 1914–15, voters in Arizona approved a nativist hiring initiative backed largely by native-born, non-Hispanic white miners. This "Eighty Percent" Law, which sought to require all employers of five or more workers in the state to ensure that 80% of their employees were U.S. citizens, was soon met with widespread protests among immigrants and foreign governments alike.[44]

Just as nativists in Arizona took advantage of an unemployment crisis to enact a new anti-alien hiring statute, nativists in New York sought to resuscitate their state's "dead letter" anti-alien public works employment law. In late 1914, New York City building trades unions complained of the employment of non-citizens by construction firms on a massive subway expansion project.[45] Contractors—who variously tried to ignore the law or hire only U.S. citizen workers—were beset by numerous work slowdowns and stoppages throughout the winter of 1914–15.[46] As these Arizona and New York conflicts drove newspaper headlines across the country, some commentators pointed to the diplomatic harm wrought by the California Alien Land Law in 1913 and the potential economic impact of these ongoing disputes to propose federal legislation to clarify the employment rights of non-citizens. The Wilson Administration rejected those demands, arguing that individuals who believed that their constitutional or treaty rights had been violated could file suit in court.[47]

Some did. One such lawsuit stymied the operation of Arizona's "Eighty Percent Law" shortly after its adoption, as the result of a federal court

43 See, among many others, Herbert Le Pore, "Prelude to Prejudice: Hiram Johnson, Woodrow Wilson, and the California Alien Land Law Controversy of 1913," *Southern California Quarterly* 61 (1979): 99–110; and Motomura, *Americans in Waiting*, 69–70, 75–76.

44 See, among several others, Astrid J. Norvelle, "'80 Percent Bill,' Court Injunctions, and Arizona Labor: Billy Truax's Two Supreme Court Cases," *Western Legal History* 17 (2004): 163–210; and Katherine Benton-Cohen, *Borderline Americans: Racial Division and Labor War in the Arizona Borderlands* (Cambridge, MA: Harvard University Press, 2009), 200–205.

45 New York Public Service Commission, *Report of the Public Service Commission for the First District of the State of New York for the Year Ending December 31, 1914* (Albany, NY: 1915), 92–94; see also Higham, *Strangers in the Land*, 183–84; and Catron, "The Citizenship Advantage," 1005.

46 "Alien Labor Ban May Tie Up All Transit Work," *New York Tribune*, November 18, 1914, 1; "The New York Alien Labor Law," *New York Times*, November 19, 1914, 10; "Grout Seeking Test of Alien Labor Law," *New York Times*, November 21, 1914, 6; and "Alien Law Decision Halts New Subways," 5.

47 "General Alien Laws Opposed by President," *St. Louis Post-Dispatch*, December 15, 1914, 3; and "Can't Stop Anti-Alien Laws," *New York Times*, December 16, 1914, 10.

injunction.[48] In New York, contractors likewise challenged the constitutionality of the state's anti-alien public works hiring law in two test cases.[49] In late February 1915, in an opinion authored by future United States Supreme Court Justice Benjamin Cardozo, the New York State Court of Appeals unexpectedly upheld the state's anti-alien public and publicly funded employment law. Word of the ruling ground subway construction work to a chaotic halt and thousands of non-citizen workers were abruptly laid off.[50] While contractors soon appealed this ruling to the United States Supreme Court, state lawmakers hastily replaced the New York citizen-only hiring law with a citizen-preference policy in mid-March 1915. Contractors, once more able to hire non-citizen workers, did so, thus ending the conflict in New York.[51] By that time, however, a controversy over the implementation of an anti-alien public employment law had already broken out in California. Katharine Short was at its center.

Controversy

In December 1914, as news of the Arizona and New York City hiring conflicts spread across the country, supervisors in Kern County demanded that all departments under their jurisdiction strictly enforce California's citizen-only public employment law. Governor Hiram Johnson credited "the unemployment problem," in the county's largest city, Bakersfield, for sparking "some agitation" to implement the law, which had hitherto been "more or less of a dead letter."[52] Upon learning that the director of the Kern County High School Farm was a non-citizen, county authorities asked state Superintendent of Public Instruction Edward Hyatt if the law applied to teachers. Hyatt, who knew that the law had been widely ignored in practice for years, sought the advice of state Attorney General Ulysses S. Webb. Webb, a staunch (especially anti-Asian) nativist, responded in early February by issuing an opinion announcing that the state's citizen-only hiring law applied to all public employees, including teachers

48 The case would ultimately reach the Supreme Court in: *Truax v. Raich*, 239 U.S. 33 (1915). On its broader legal and political context, see, especially, Norvelle, "'80 Percent Bill,' Court Injunctions, and Arizona Labor," 183–94.

49 These cases would also ultimately reach the nation's highest court. See *Heim v. McCall*, 239 U.S. 175 (1915) and *Crane v. New York* 239 U.S. 195 (1915).

50 "Court Upholds Alien Labor Law," *New York Times*, February 26, 1915, 1, 5; and "Alien Law Decision Halts New Subways," 5.

51 "Alien Law Repeal Passes the Senate," *New York Times*, March 9, 1915, 1; and "May Keep Aliens on Subway Work," *New York Times*, April 5, 1915, 9.

52 Johnson to Bryan, April 6, 1915, 2. BANC, "Letters from Johnson."

and support staff. It also declared that local, county, and state officials were not authorized to pay salaries to non-citizen public employees in the state.[53]

Although news of Webb's announcement soon spread throughout California, neither he nor Hyatt spelled out precisely how this policy was to be implemented in practice. Local and county authorities scrambled as they tried to enforce the law on the fly. When Kern County officials declared that they would dismiss W.E. Sutherst as head of the county high school farm, he quit in protest and left the country.[54] In Santa Barbara and Mendocino counties, by contrast, non-citizen schoolteachers were deprived of pay for past work. Fearful for their own liability, local officials there refused to remunerate non-citizen teachers. Some instructors were afforded the unattractive offer of working without pay in the hopes of retroactive compensation if the law was later altered or struck down.[55]

Denying salaries for past work was too extreme for Hyatt who warned of "chaos ahead for the schools of California. . .if school trustees continue to refuse to pay aliens." If they were not paid he knew "that hundreds of teachers w[ould] refuse to teach and the school term w[ould] be badly disrupted."[56] Hyatt hoped that most school districts would permit non-citizen teachers—whom he estimated to number roughly 250–300 throughout the state—to continue to work and be paid until the conclusion of their contracts at the end of the school year.[57] But he was unwilling to issue an order to that effect, maintaining that "the trustees cannot be forced to pay if they are unwilling to take the chance."[58]

Many school administrators did continue to employ and pay non-citizen teachers. Alfred Roncovieri, San Francisco County Superintendent of Education, believed that state authorities had overreacted. The *San Francisco Chronicle* reported that he had "intimate[d]" that demands to enforce the law "must have arisen from spite work against some individual teacher."[59] Los Angeles Superintendent Mark Keppel went further, informing the press that

53 Johnson to Bryan, April 6, 1915, 2–3. BANC, "Letters from Johnson." See also: "Aliens Barred from Teaching Public Schools," (Santa Rosa) *Press Democrat*, February 6, 1915, 1; and "Teachers Aroused by Webb Ruling," *Daily Colusa Sun*, February 10, 1915, 1. Webb was a co-author of the 1913 Alien Land Act. See Le Pore, "Prelude to Prejudice."

54 "Alien Teacher Out," *Los Angeles Times*, February 15, 1915, II6; and "School Disrupted by Alien Teacher," *Sacramento Union*, April 2, 1915, 12.

55 "Alien Teachers Appeal to Hyatt," *Daily Colusa Sun*, March 19, 1915, 1; and "Alien Teacher Salaries Held in Santa Barbara," *Los Angeles Times*, April 2, 1915, I7.

56 "Alien Teachers' Salaries Held Up by the Trustees," *San Francisco Chronicle*, March 19, 1915, 1.

57 "Many Teachers in State Ineligible," *Sacramento Union*, February 19, 1915, 8.

58 "Alien Teachers Appeal to Hyatt," 1.

59 "Alien Teachers in Law Trouble," *San Francisco Chronicle*, March 20, 1915, 7.

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he was "not going round with a magnifying glass lookig [sic] for alien teachers." He further reported that "if there are any here they have been quiet and have not raised the issue."[60] But Keppel's Don't Ask, Don't Tell policy failed to assuage the concerns of many non-citizen teachers.

Instead, they rapidly fought to keep their jobs. In mid-February, twelve teachers wrote directly to Hyatt "asking what they can do to hold their positions."[61] Many others hastily took steps to become U.S. citizens. By mid-March, "Several young women school teachers in Sonoma county" had "filed their declarations of intention to become American citizens." The (Santa Rosa) *Press Democrat* wrote that "this is the result of the recent opinion rendered by Attorney General U.S. Webb."[62] The *Red Bluff Daily News* similarly reported in April that "Alien school ma'ams and masters in California [were] fast renouncing" their foreign allegiance across the state.[63] Such steps mirrored actions taken months earlier by hundreds of immigrant miners in Arizona and thousands of construction workers in New York who had likewise rapidly filed naturalization papers in an effort to save their jobs.[64]

One ostensible ally, Superintendent Keppel, advocated a highly coercive option for some immigrant teachers to keep their jobs: shotgun weddings. Noting that at that time the vast majority of immigrant women who married U.S. citizen men automatically and immediately became U.S. citizens,[65] he encouraged the—what he estimated to be—100 non-citizen women teachers working in Los Angeles schools to promptly marry American men. The *Los Angeles* [*Evening*] *Herald* reported shotgun weddings to be a "happy solution of the problem."[66] Few teachers were likely of the same opinion. But at least one considered this path.

Just 4 days after Keppel proposed his "solution," the *Herald* advised its readers that 100 local female immigrant teachers were supposedly in desperate need of husbands. It published a letter written by an anonymous self-described, "One of the Imperiled 100." After listing her requirements

60 "Alien Teachers Ask Hyatt for Warrants," *Los Angeles Herald*, March 19, 1915, 12.

61 "Alien Teachers Ask How to Hold Place," *Los Angeles Herald*, February 18, 1915, 10.

62 "Teachers Are to Be Citizens," (Santa Rosa) *Press Democrat*, March 17, 1915, 6.

63 "Alien Teachers Getting Papers Naturalization," *Red Bluff Daily News*, April 27, 1915, 4.

64 "Big Rush of Aliens to Become Citizens," *New York Times*, December 13, 1914, 11; and Norvelle, "'80 Percent Bill,' Court Injunctions, and Arizona Labor," 188.

65 In 1915, only women racially ineligible for citizenship (i.e., East and South Asian women) retained their nationality upon marrying U.S. citizen husbands. See Marian L. Smith, "'Any Woman Who Is Now or May Hereafter Be Married . . .': Women and Naturalization, ca. 1802-1940," *Prologue* 30 (1998): 146–53.

66 "100 Teachers Must Wed to Keep Jobs," *Los Angeles Evening Herald*, February 19, 1915, 9.

for a prospective husband ("brunet," tall, and at least "35 or 40" years of age), she reiterated her desire for autonomy by noting her openness to a husband from the East Coast, "in case a 'leave of absence' should sometime be desirable." The *Herald* writer, by contrast, patronizingly described her as an "'imported' blonde" in asking its eligible male readers not to let her "go husbandless and lose her position."[67]

Conflicting and coercive laws of marriage, citizenship, and employment did not just entangle immigrant women during the Alien Teachers Controversy. Since the passage of the federal Expatriation Act of 1907, *any* United States-born woman who had subsequently married a foreign man automatically lost her United States citizenship.[68] Many of these marital expatriate teachers wrote to the state attorney general to ask what could be done. Without exception, they were told "that they t[ook] the nationality of their husbands."[69] Non-citizen faculty members and instructors at the University of California similarly worried that they too would lose their jobs in March 1915, although the university's leadership strenuously challenged the law's applicability to non-citizen faculty and continued to employ and pay non-citizen professors' salaries.[70]

The tortuous enforcement of and growing disputes over the rediscovered law ensured that this controversy would continue to rage in California politics. A campaign against it launched by one Canadian teacher, however, dramatically reshaped its scope.

Katharine Short, a proud Ontario-born Canadian and British subject, had been teaching in California for nearly 10 years when word arrived of the attorney general's announcement in her town of Mendocino. Upon learning that local school officials had decided to refuse to pay her salary, Short fought back. She pointed to her year-long teaching contract to demand her salary, reminding her supervisors that *they* had been aware that she "was a Canadian and not naturalized" when they had hired her. On February 28, she wrote to her father William Short in London, Ontario, and asked him to implore Canadian authorities to intervene to "help to protect the contract rights of its citizens." She claimed in her letter that the sudden enforcement of the citizen-only public schoolteacher policy

67 "100 Men Wanted To Qualify as Able to Wed," *Los Angeles Evening Herald*, February 23, 1915, 9.

68 On marital expatriation, see especially Candice Lewis Bredbenner, *A Nationality of Her Own: Women, Marriage, and the Law of Citizenship* (Berkeley: University of California Press, 1998).

69 "Alien Teachers in Law Trouble," 7.

70 "Alien Teachers in State Are Denied Money Is Charge," *San Francisco Chronicle*, March 16, 1915, 3; and "Alien Teachers in Law Trouble," 7.

"affects about 1500 people in the state, the large majority of whom are Canadians." Short did not explain how she arrived at this number, a figure far higher than state authorities' estimates. But she made clear her eagerness for a prompt solution to the crisis. A recent homeowner, Short feared defaulting on her mortgage.[71] In addition to seeking assistance from Canadian authorities, she and a fellow non-citizen teacher threatened to sue local school trustees in Mendocino in an effort to obtain their salaries.[72]

Katharine Short was well positioned to lead this campaign. Her father's friend, William Gray, had recently won a special election to represent a London-based district in Canada's national Parliament.[73] Short asked Gray to advocate on his daughter's behalf to influence "public opinion" in Canada, particularly "when California is asking Canadians and other foreigners to visit the Panama Exhibition," a massive international exposition in San Francisco alongside a rival world's fair in San Diego to celebrate the opening of the Panama Canal.[74] The newly elected Conservative M.P.—who himself held significant oil and mining investments in California—proved eager to help.[75] Together, they rapidly shared news of the controversy in Ontario. Word spread quickly. By mid-March, newspapers across North America, and beyond, were reporting on the plight of Canadian teachers in California.[76] Gray also asked the

71 Katharine Short to William Short, February 28, 1915. LAC/BAC, "Employment of Aliens in California."

72 "Suit Threatened Over Alien Teacher Trouble," *Ukiah Dispatch Democrat*, February 26, 1915; and "Alien Teachers Appeal to Hyatt," 1. The author thanks the Mendocino County Historical Society, and especially Archivist Alyssa Ballard, for tracking down and sharing several local newspaper accounts (from the *Ukiah Dispatch Democrat* and the *Mendocino Beacon*) of Katharine Short's dispute from records held by the MCHS.

73 See "William Gray," Parliament of Canada Biography, https://lop.parl.ca/sites/ParlInfo/default/en_CA/People/Profile?personId=13112 (May 13, 2021).

74 Quote from William Short to William Gray, March 10, 1915. LAC/BAC, "Employment of Aliens in California." See also Carolyn Peter, "California Welcomes the World: International Expositions, 1894–1940 and the Selling of the State," in *Reading California: Art, Image, and Identity, 1900–2000*, ed. Stephanie Barron, Sheri Bernstein, and Ilene Susan Fort (Berkeley: University of California Press, 2000), 69–84.

75 Johnson to Bryan, April 6, 1915, 5. BANC, "Letters from Johnson."

76 See, among others, "Dominion Asked to Secure Rights for Canadians," (London) *Free Press*, March 10, 1915, in LAC/BAC, "Employment of Aliens in California"; "Refusing to Pay Canadians," *Ottawa Citizen*, March 19, 1915, 3; "Californian Law," *The Scotsman*, March 18, 1915, 5; "Canadians' Pay Withheld," *Rochester Democrat and Chronicle*, March 16, 1915, 2; "Says Canadians Not Paid," *Boston Daily Globe*, March 16, 1915, 13; and "Education Bill Causes a Row," *Los Angeles Times*, March 18, 1915, I5.

Canadian Ministry of Justice and Department of External Affairs to aid Katharine Short in her efforts.[77]

Canadian Prime Minister Robert Borden had strong domestic political incentives to ensure that Short received support from his administration. Borden's Conservatives had defeated their rival Liberals for the first time in 15 years in the Federal Election of 1911 on a strong wave of anti-American sentiment. During the campaign, Borden and his allies had successfully framed a negotiated, but not-yet-ratified, United States–Canada free trade agreement as a threat to Canada's economic interests and national security. Borden's most ardent supporters—Anglo-Canadian nationalists and British imperialists—were already suspicious of and perceptive to American slights and threats toward Canada and Canadians.[78] That sentiment ran especially strong in Anglo-Canadian politics in 1915. Canada, as part of the British Empire, was then at war with Germany. The United States was not. Many Anglo-Canadians viewed United States neutrality, particularly as American companies profited from wartime production, as a gross insult while tens of thousands of Canadian soldiers died along the Western Front.[79]

On March 18, Gray raised the matter in the House of Commons, declaring it an outrage that local authorities in California refused to pay Katharine Short despite her teaching contract. But Gray called for more than just her remuneration. "[I]f the United States are, as we believe, a Christian and civilized nation," he declared, "when this gross injustice being done to our fellow countrymen is put before the proper authorities the matter will, I believe, be speedily adjusted and the jug handled Act wiped off the statute book."[80] Minister of Justice C.J. Doherty replied that his subordinates were hard at work on the file and promised diplomatic action if necessary. But he cautioned patience, arguing, "we must assume that there can be no intention on the part of the proper authorities in the neighbouring states to cause any injustice to any Canadians."[81]

77 E.L. Newcombe to Joseph Pope, March 15, 1915; and Gray to Pope, March 16, 1915. LAC/BAC, "Employment of Aliens in California."

78 Kendrick A. Clements, "Manifest Destiny and Canadian Reciprocity in 1911," *Pacific Historical Review* 42 (1973): 32–52; and John Herd Thompson and Stephen J. Randall, *Canada and the United States: Ambivalent Allies* (Athens: University of Georgia Press, 2002), 87–92.

79 World War I also split mostly pro-war Anglo-Canadian and largely pro-neutrality French-Canadian communities. See Thompson and Randall, *Canada and the United States*, 92–98.

80 *House of Commons Debates*, 12th Parliament, 5th Session, Vol. 2: March 18, 1915, 1190.

81 Ibid., 1191.

While officials in Ottawa investigated the matter, the crown's representative to Canada, Governor-General Prince Arthur, took a personal interest in this dispute. He privately wrote to the British Ambassador to the United States,[82] Sir Cecil Spring Rice, on April 1 to suggest that a travel advisory for Canadians living in or traveling to California might be warranted. Prince Arthur argued that, "If the circumstances are as represented by Miss Short, it would seem to be of the utmost importance that representations should be made at once to the Federal Government, or, at any rate, that Canadians should be aware of the conditions they are likely to meet with in the State of California and the disabilities to which they will be exposed there."[83]

Although not ready to issue a travel warning, Spring Rice did lobby strongly for the rights of Canadian teachers in California. He wrote to United States Secretary of State William Jennings Bryan, imploring him to intervene to ensure that Canadian teachers like Short were paid.[84] Spring Rice reminded Bryan that the Borden Administration "ha[d] joined whole heartedly in the Panama Exhibition and one of the Ministers ha[d] left his Parliamentary duties in order to assist at the opening ceremonies." He especially protested the sudden enforcement of the law, warning of its harm to United States–Canadian relations, writing that, "it is evident that such a measure, enforced in such a manner, and at such a time, by which innocent persons, many of them women, are made to suffer in such a way, is calculated, if it should appear to be correctly reported, to arouse public opinion in Canada to a most unfortunate degree."[85]

In response, Bryan urgently requested a "statement of facts" from Governor Johnson in California on March 29. Bryan warned Johnson that the controversy was "exciting much attention in Canada" and "suggest[ed]. . .whether it would not be advisable to seek to obtain some prompt legislative action for the relief of those aliens who have rendered services for which they are unable to obtain payment."[86] Johnson promptly

82 The British ambassador represented Canadian interests in Washington, DC, until the opening of a Canadian legation in 1927. See Stephen Azzi, *Reconcilable Differences: A History of Canada-US Relations* (New York: Oxford University Press, 2014), 105.

83 Prince Arthur to Spring Rice, April 1, 1915. LAC/BAC "Employment of Aliens in California."

84 Formal Correspondence of Spring Rice to Bryan, March 24, 1915, 1–2; and Personal Correspondence of Spring Rice to Bryan, March 24, 1915, 1–3. LAC/BAC, "Employment of Aliens in California."

85 Personal Correspondence, March 24, 1915, 2. LAC/BAC, "Employment of Aliens in California."

86 Bryan to Johnson, March 29, 1915, 1–2. BANC Hiram Johnson Papers, MSS C-B 581 Part II, Box 34, "Letters to Johnson, UI-VZ," Folder, "U.S. State Department, January-December 1915," (hereafter BANC, "Letters to Johnson"); See also "Bryan Comes to Rescue of Alien Teachers," *Los Angeles Times*, April 1, 1915, I3.

telegraphed Bryan the next day to inform him that legislation had been drafted to mitigate the effects of the controversy and was likely to succeed. The governor reiterated that non-citizen University of California faculty had always been and would continue to be paid.[87] But Johnson was an (especially anti-Asian) immigration restrictionist who had rebuffed Japanese diplomatic pressure 2 years earlier amid the Alien Land Law crisis.[88] And he had not said his last word on the matter.

On March 31, Johnson informed Bryan that the state Board of Education had been canvassing local school boards across California to ascertain the impact of the controversy on non-citizen schoolteachers' employment. Johnson reported that the Board had heard of only four non-citizen teachers who had lost their jobs, while learning of "approximately two hundred others who are ineligible under the law" but who continued to work and receive pay.[89] The governor further noted that, "A prominent member of" that Board had "expresse[d] his strong personal opinion that one who insists upon retaining allegiance to a foreign power, should not teach in our elementary schools." Johnson also pointed to a growing "trend" of "the law of the [Canadian] Dominion itself" which increasingly "prevent[ed] the employment of aliens in the schools of Canada." Indeed, none other than Katharine Short's home province of Ontario had recently restricted employment as public schoolteachers to British subjects.[90]

This discovery threw a major wrench in Katharine Short's campaign. Bryan promptly shared Johnson's message with Spring Rice.[91] Spring Rice, in turn, wrote to Canadian authorities to ask if it was true that Ontario barred non-citizens from teaching in public schools. Canadian Ministry of Justice officials quickly replied that the two laws were not analogous.[92] Suspicious, Spring Rice wrote back to Ottawa again and demanded to know more about the relevant Ontario law.[93] Upon further investigation, the chief civil servant for foreign affairs in Canada, Sir Joseph Pope, concurred with Spring Rice's suspicions, finding that "California Authorities would seem to be justified in their statement

87 Johnson to Bryan, March 30, 1915, 1–3. BANC, "Letters from Johnson."

88 Le Pore, "Prelude to Prejudice."

89 Johnson to Bryan, March 31, 1915, 1. BANC, "Letters from Johnson."

90 Ibid., 2. See also "Alien Enemies in Public Positions," *Canada Law Journal* LI (1915): 5. Found in LAC/BAC "Employment of Aliens in California."

91 "Paraphrase of cypher telegram from the Ambassador at Washington to the Governor-General," April 3, 1915; and Spring Rice to Prince Arthur, April 14, 1915. LAC/BAC "Employment of Aliens in California."

92 Newcombe to Pope, April 14, 1915. LAC/BAC, "Employment of Aliens in California."

93 Spring Rice to Pope, April 24, 1915. LAC/BAC, "Employment of Aliens in California."

that the legislation debarring Miss Short from employment as a teacher in California is entirely on the lines of the Ontario legislation."[94] Pope reasoned that, "in the face of this Ontario Statute, there is nothing more to be said in support of Miss Short's claim."[95]

Amid these developments, Katharine Short wrote to Johnson to try to sort out her claims directly. She described how the sudden enforcement of the state law had thrown her life into disarray and put her at a growing risk of defaulting on her mortgage. Short claimed that that "The people of this county are very anxious that the matter be settled in my favor." She further maintained that the recently elected District Attorney, Hale McCowen Jr., was an ambitious "very young man" who sought "to win notice" at her expense. Short claimed that the new county School Superintendent, Anna Porterfield, refused to pay non-citizen teachers' salaries as she feared "being called on for the money" in court by McCowen.[96] To break this impasse, Short asked Johnson to put "a little pressure" on the county district attorney to pay her salary. If the governor agreed to do so, she assured him that, "the agitation in Canada will cease."[97] This offer was not well received by Johnson. He copied Short's letter and sent its contents to Bryan, commenting that her message and efforts to gain support from Canadian authorities illustrated "not only the justice of, but the necessity for the existing law."[98]

Despite these setbacks, newspaper coverage of the controversy proved a powerful asset to Short's campaign. In California, the press generally portrayed teachers threatened by the citizen-only public schoolteacher policy favorably. The *Mendocino Beacon* reported that "Miss Short is said to be a very popular and very competent teacher and her pupils and friends sincerely hope that she will hold her position."[99] Other columns emphasized the dispute's growing harm to California's international reputation. The (Santa Barbara) *Morning Press* argued in an April editorial that, "If treaties are involved, and international relations at stake, California cannot afford to make so small a matter an issue."[100] Unfavorable nationwide and

94 Pope to Newcombe, May 12, 1915, 1. LAC/BAC, "Employment of Aliens in California."

95 Ibid., 2.

96 Johnson to Bryan, April 6, 1915, 5. BANC, "Letters from Johnson."

97 Ibid., 5.

98 Ibid., 6.

99 "Regarding Alien Teachers," *Mendocino Beacon*, February 27, 1915; In Santa Barbara County, the *Lompoc Journal* similarly lambasted the abrupt, unwanted firing of a popular (also Canadian) grammar school principal in the middle of the academic year. See "Alien Law Hits Local School Teacher," *Lompoc Journal*, March 13, 1915, 1.

100 "Why Alien Teachers?" (Santa Barbara) *Morning Press*, April 4, 1915, 4.

international press coverage of the dispute—as the state sought to attract business investment and tourists during two major world fairs—likewise increased pressure on legislators.[101] Although some local newspaper columns in California defended the state's citizen-only policy—arguing that teachers should be required to both inculcate and embody American citizenship—most explicitly or tacitly buttressed non-citizen teachers' employment rights during the dispute.[102]

Short's case was further bolstered by the support that she received from most Canadian authorities and the United States State Department's desire to bring about a speedy resolution to the controversy. The Canadian Ministry of Justice insisted (with considerable sleight of hand) throughout months-long correspondence with the British Embassy in Washington, DC that Ontario's anti-alien public schoolteacher law was not comparable to California's policy.[103] By contrast, when Johnson wavered in supporting changes to the state's nativist public employment provisions, Bryan's close advisor (and soon-to-be replacement), Robert Lansing, promptly lobbied the governor to recommit to his initial plans. Lansing argued that a citizen-only public schoolteacher policy seemed to be "of comparatively little advantage to the citizens of your State, while its provisions might easily lead to ill-feeling on the part of foreign governments."[104]

Short also helped to shape and took full advantage of a flexibly advantageous depiction of the teachers harmed by the state law. By framing this dispute in Canada as a dramatic and widespread attack on Canadians in California, Short aligned her campaign with a powerful strain of wartime nationalism in Anglo-Canadian politics. Conversely, her—likely exaggerated—claim that the state law had harmed 1,500 (mostly Canadian) teachers was widely portrayed within California as an outrage to a favorable immigrant population. The (Santa Barbara) *Morning Press* editorialized that "There is a difference. . .in countries." As "Canada is part of America, and the lines of separation from

101 "Teachers Affected by California Law," *Ottawa Citizen*, April 3, 1915, 5; "Forgotten Law Is Invoked to Oust Teachers," *Arizona Republican*, April 1, 1915, 1, 5; and "Protests Dismissal of Canadians in California," *Detroit Free Press,* April 3, 1915, 9.

102 For examples of such press coverage, see "No Alien School Teachers," *Sacramento Union*, February 7, 1915, 4; "Surprising Ignorance," *Riverside Daily Press*, May 28, 1915, 4; and "The Naturalization of School Teachers," *Los Angeles Herald*, May 31, 1915, 6.

103 Only at the very end of the dispute did Deputy Minister of Justice E.L. Newcombe clarify that Ontario did indeed have a similar citizen-only public schoolteacher law. However, he insisted that unlike officials in Mendocino, authorities in Ontario would have paid the salary of a mistakenly hired non-citizen teacher. See Newcombe to Pope, April 14, 1915; Newcombe to Pope, May 22, 1915. LAC/BAC, "Employment of Aliens in California."

104 Robert Lansing to Johnson, April 20, 1915, 2. "U.S. Department of State, January–December 1915," BANC, "Letters to Johnson."

the United States is little more than imaginary," the *Press* argued that "There is less objection to Canadians teaching in the schools of the American states than there would be to teachers from countries more widely separated."[105] State Senator Herbert Jones of Santa Clara, the lead sponsor of the bill to alter California's anti-alien public employment policy, took that point even further. Claiming that "The great majority of these foreign-born teachers are Canadian girls who have come here when very young," Jones argued that such women were, "practically American in education, training and sentiment." He believed that it was unjust to allow this "forgotten. . .dead letter" law to strike at their livelihoods "like a clap of thunder."[106] Most of his fellow lawmakers concurred.

Jones's bill earned the unanimous approval of the State Senate Judiciary Committee in late March and advanced in both chambers in early-to-mid April. Finally acceding to pressure from state legislators, diplomats, and the press, Johnson signed Jones's bill into law in mid-May.[107] It retroactively validated the payment of salaries to non-citizen teachers, thus enabling Katharine Short to receive her long-overdue salary on May 25.[108]

Short was wise to have eschewed President Wilson's advice to seek redress from the courts in challenging an anti-alien public employment law in 1915. Later that fall, the United States Supreme Court struck down Arizona's "Eighty Percent Law" in *Truax v. Raich*, as a violation of non-citizens' Fourteenth Amendment rights and a usurpation of federal immigration powers (as the court viewed the law to be an attempt to render most immigrants inadmissible by denying them access to virtually all forms of work in Arizona).[109] But the high court came to the opposite conclusion in litigation arising from the New York subway conflict. In *Heim v. McCall*, it ruled that anti-alien public and publicly funded employment statutes constituted a legitimate exercise of states' police powers, rejecting contract rights and treaty obligation claims that had proved victorious in some previous lower court battles over the constitutionality of such laws.[110]

Although the Supreme Court's opinion in *Heim v. McCall* arrived too late to impact the course of the New York subway dispute, its ruling would shape non-citizens' employment rights across the country for

105 "Why Alien Teachers?" 4.

106 "Would Relieve Alien Teachers," I7.

107 "Johnson Is Opposed to Speeders," *Hanford Journal*, March 28, 1915, 1; "Bill to Aid Alien Teachers Approved," *San Francisco Chronicle*, April 2, 1915, 3; "Assembly Approves Exemption of Aliens," *San Francisco Chronicle*, April 20, 1915, 1; and "First Papers Entitle Aliens to Teach in Public Schools," *Sacramento Union*, May 17, 1915, 10.

108 Katharine Short to Ministry of Justice, May 26, 1915. LAC/BAC, "Employment of Aliens in California."

109 Motomura, *Americans in Waiting*, 69.

110 Kelly, "Wavering Course," 704–8.

decades. For the first time, the high court—at the height of the *Lochner*-era of jurisprudence no less—had explicitly upheld the constitutionality of anti-alien public and publicly funded employment statutes. In so doing, it provided a powerful precedent to buttress hundreds of emerging nativist state laws restricting non-citizens' access to blue-collar forms of employment and professional licensure over the next half century.[111]

Katharine Short's successful diplomatic, political, and public relations campaign against California's public employment law could not have come at a better time amid these legal developments. It ensured that many immigrant teachers in California would be able to pursue their profession in 1915 and beyond. But not all non-citizen teachers—let alone all public employees—in California would benefit from her efforts.

Aftermath

The changes to California's public employment policies enacted by state lawmakers in 1915 as a result of Short's activism proved quite limited in scope. The new 1915 law clarified that faculty in the state university system and public "specialist[s] or expert[s] temporarily employed" faced no citizenship requirements. United States-born women who had lost citizenship via marriage could also work as public schoolteachers irrespective of their nationality. Immigrants, however, would have to file their "first papers" and naturalize within 6 months of their eligibility for citizenship to remain public schoolteachers. All other forms of local, county, or state employment remained restricted to U.S. citizens in California.[112]

Although this law enabled many non-citizens to work as public schoolteachers, not all immigrants could make use of its provisions. Only unmarried, divorced, or widowed women could file "first" or "final" citizenship papers independently under federal naturalization law in 1915. Immigrant women who were married to non-citizens only became citizens if and when their husbands naturalized. Therefore, their eligibility to serve as public schoolteachers hinged on the nationality of their spouses. East and South Asian immigrants, racially denied citizenship under federal nationality law, remained barred from serving as public schoolteachers irrespective of the nationality of their spouses.[113] And although courts recognized most Mexican immigrants as "white by law" for naturalization purposes, racist

111 Ibid.

112 Ch. 417 (1915) California Legislature – 41st Session: 690–91.

113 See especially Ian Haney-López, *White by Law: The Legal Construction of Race* (New York University Press, 1996); and Smith, "'Any Woman Who Is Now Now or May Hereafter Be Married.'"

discrimination in practice contributed to dramatically low naturalization rates among Mexican immigrants in the early-to-mid twentieth century.[114]

Publicity surrounding the controversy actually harmed some non-citizen workers in other lines of public employment in California. As early as February 1915, the (San Luis Obispo) *Morning Tribune* reminded its readers that the state's anti-alien hiring law applied to many forms of public employment beyond teaching. As non-citizens were not allowed to do "any county work" under the newly remembered state law, the *Tribune* encouraged "Roadmasters and others employing all classes of labor" to "bear this matter in mind and thus, perhaps, later save themselves considerable inconvenience" by hiring only U.S. citizens.[115] This was no idle suggestion. Janitors in Redondo Beach and city road and parks workers in Riverside lost their jobs as the teachers' dispute played out the press.[116]

In Riverside, city officials acted in response to a petition signed by "42 working men" who marshalled rhetoric echoing their racist and nativist namesakes of the 1870s. The leader of these "working men," G. J. Gatliff, specifically targeted Mexican immigrants and elided whiteness with citizenship by framing Mexican laborers as not just foreign but as non-white (despite prevailing federal naturalization law to the contrary). The *Riverside Daily Press* reported that Gatliff "protest[ed] against the employment of 'cholo' labor in the street department, particularly during a year when so many white men and citizens were out of employment."[117] He got his wish. Within days, twelve Mexican immigrants were fired by the Riverside Street Department and two were fired by the city Park Board. One Light Department employee was permitted a leave of absence to complete his naturalization paperwork and resume working in a few months. Distinct from all other (discharged) non-citizen employees, he was not described as "Mexican."[118] Unlike Katharine Short, Mexican immigrant blue-collar municipal workers were clearly not viewed by lawmakers or the press in California as "practically American."

But non-citizen teachers nevertheless remained vulnerable to restrictions in less favorable contexts. With the nation at war in May 1918, California education authorities announced that they aimed to "refus[e] to grant credentials to alien enemies" and planned to investigate the status of

114 Martha Menchaca, *Naturalizing Mexican Immigrants: A Texas History* (Austin: University of Texas Press, 2011); and Fox and Bloemraad, "Beyond 'White by Law.'"

115 "Cannot Employ Aliens," (San Luis Obispo) *Morning Tribune*, February 24, 1915, 1.

116 "Alien Janitors Barred from School Service," *Sacramento Union*, April 15, 1915, 9; "Old Alien Labor Law to Get Riverside into Spot Light," *Riverside Daily Press*, April 26, 1915, 6; and "Native Laborers Replacing Aliens," *Riverside Daily Press*, May 1, 1915, 2.

117 "Old Alien Labor Law to Get Riverside into Spot Light," 6.

118 "Native Laborers Replacing Aliens," 2.

immigrant teachers' citizenship petitions to "ascertain whether or not if the proper time had elapsed" for them to naturalize.[119] Though these plans were dropped following the conclusion of the war, that did not stop the *Los Angeles Times* from warning that radical foreign teachers were "poison[ing]" the minds of American students as the First Red Scare swept the nation in 1919. "If inadequate pay facilitates the employment of alien plotters in our schools and colleges by failing to attract the best type of American educator," the *Times* contended that "pay should be raised to any level, however high," to hire suitably patriotic citizen teachers.[120]

United States entry into World War II once more threatened the employment prospects of immigrant teachers in California. In early 1942, state education officials announced plans to increase documentation requirements to ensure that immigrant teachers were promptly completing their naturalization petitions.[121] This scheme was found to be impractical, however, as a growing state population and widespread military enlistments produced a shortage of teachers. State politicians soon reversed course and expanded access to teaching positions to non-citizens of Allied and neutral nations for the duration of the war.[122] Although Katharine Short continued to work as a teacher in California into the early 1940s, she would not need to use its provisions.[123] Short had become an American citizen through her marriage to Frank Brown, a U.S. citizen, on Christmas Day 1917.[124]

Cold comfort that was to Japanese-American teachers in California who were expelled from the West Coast and incarcerated by their own government in internment camps during World War II. Their parents had been deemed "racially ineligible to citizenship" and had been permanently denied the right to work as public schoolteachers (among many other

119 Meeting Minutes, May 20, 1918. California State Archives, Sacramento. California Board of Education, "Commission on Credentials Minutes, 1918–1929," Files 359.01 (1–2) C3609.

120 "Poison in the Spring," *Los Angeles Times*, November 23, 1919, II4.

121 Meeting Minutes, February 17, 1942. California State Archives. Board of Education, "Teacher Preparation and Licensing Commission – Credentials Commission, 1/19/1932 – 9/7/1960," Folder, "Minutes 11/25/1941–6/22/1943," Box 1. Files R359.01.

122 "Regulations Governing the Issuance of Emergency Credentials Authorizing Public School Service in California, Plan II," October 23, 1943. California State Archives. State Department of Education, "Division of Credentials, Commission for Teacher Preparation & Licensing Commission of Credentials, Subject Files," Folder, "1942–1943 (1 of 2)." Files R359.04 11/2.

123 "1942 Napa City Directory," 328, https://www.ancestrylibrary.com/interactive/2469/3143311?backurl=https%3a%2f%2fsearch.ancestrylibrary.com%2fsearch%2fdb.aspx%3fdbid%3d2469%26path%3d&ssrc=&backlabel=ReturnBrowsing#?imageId=3143489 (May 13, 2021).

124 "Gridley Notes," *Chico Record*, January 10, 1918, 8.

professions). United States citizenship failed to prevent their loss of freedom, arbitrary arrest, and incarceration.

Conclusion

Immigrants like Katharine Short possessed limited tools when confronting anti-alien hiring and licensure laws from the late-nineteenth to the mid-twentieth centuries. Consequently, they had to make hard choices about the strategies they would employ when challenging these—increasingly numerous—state anti-alien employment laws. Katharine Short's class and racial status along with her connections to powerful Canadian officials made her path more accessible than that of most of her contemporaries. But her success was never guaranteed. She strategically and flexibly embraced the rhetoric of contractual rights and perceptions of Canadian-ness in a multi-pronged diplomatic, legal, political, and public relations campaign. Although it achieved real gains for her and many fellow teachers, its benefits were far from universal.

Although the California Alien Teachers Controversy demonstrates how relatively favored immigrant populations, particularly Canadians, were sometimes spared the harshest consequences of state anti-alien employment and licensure policies in the early-to-mid twentieth century, it also shows how all non-citizens remained—and remain—vulnerable to nativist demands to adopt and/or stringently enforce anti-alien hiring laws. In 1939, the Massachusetts Division of Immigration and Americanization warned of the impact of "recent laws discriminatory to the alien." Canadian immigrants, who often felt "assimilated" years before "tak[ing] on the actual legal status of a naturalized citizen," were especially vulnerable to such laws, the Division reported.[125] In Depression-era Massachusetts, the widespread perception of Canadian immigrants as "practically American" could actually come at an unexpected cost.

Although federal visa requirements often shape immigrant employment opportunities to a greater degree than does state alienage law today, immigrant teachers remain subject to sudden changes in citizenship requirements. Although the United States Supreme Court struck down many anti-alien hiring and licensure laws for failing to meet federal constitutional protections under strict scrutiny standards in the late 1960s and early 1970s, the high court carved out exceptions for "state function" forms of employment. In *Ambach v. Norwick* (1979), the court ruled that public

125 Massachusetts Department of Education, *Annual Report of the Division of Immigration and Americanization for the Year Ending November 30, 1939* (Boston: Wright & Potter Print. Co., State Printers, 1940), 12.

schoolteachers fell within that domain of jurisprudence, thus upholding the constitutionality of state restrictions on their hiring.[126]

The next immigrant teacher to lead a struggle against citizen-only employment requirements will likely confront logistical, political, and constitutional challenges akin to those faced by Katharine Short. One hopes that such a campaign will be even more inclusive than its predecessor in its aims, strategies, and outcomes.

126 Kelly, "Wavering Course," 729–33.

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