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THE AMERICAN JEWISH COMMUNITY'S REACTION TO
THE FLUCTUATING IMMIGRATION POLICY
OF THE UNITED STATES CONGRESS

By

Allen Isaac Freehling

Thesis submitted in partial fulfillment
of the requirements for the Degree of
Master of Arts in Hebrew Letters and
Ordination

HEBREW UNION COLLEGE-JEWISH INSTITUTE OF RELIGION

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Referee, Professor Jacob R. Marcus

To LEONORE WEIDBERG FREEHLING, for her patience
and understanding as we conclude this chapter in
our life's adventure, I express my love, affection
and thanks.

DIGEST

Beginning in 1798, the immigration policy of the United States, as reflected in legislation passed by Congress, shifted back and forth from extreme liberalism to almost total restriction. This paper traces that fluctuating policy. In addition, Congressional personalities who master-minded these shifts and circumstances that prompted them are reported. Finally, reactions of the American Jewish community toward America's ever-changing legislative immigration policy are discussed.

This thesis begins with some observations regarding the phenomena of emigration and immigration, considering forces at play which stimulated peoples to leave western and eastern Europe and to settle in America. It mentions conditions affecting European Jewry and indicates the varied reception found by the immigrant when he arrived here.

This discussion of psychological and sociological factors is followed by an account of general historical events that explains the socio-economic-political circumstances prevalent in Europe and America, the waves of migration from the Continent, and this nation's shifting legislative attitude.

A chronicle of legislation is offered, with special consideration of the Acts of 1917, 1921, 1940, 1952 and 1965.

Then, in a decade-by decade summary, this paper traces the efforts of individual American Jews, Jewish organizations and the combined forces of American Jewry, allying itself with other liberal elements in the United States, which battled the restrictive bloc in Congress.

Throughout this thesis, emphasis is placed on significant factors that motivated both restrictionists and liberals. It shows the need for immigrant labor during the years when American industry and commerce were

beginning to thrive. It recalls organized labor's concern about an over-populated work force. It reports the nation's sympathy for the European refugee seeking relief from war and persecution. It points to shifts in the balance of power which divided Congress and the White House over the issue of a national immigration policy.

Despite the fluctuations reflected in enacted measures, the American Jewish community stood as a constant champion of liberal legislation. Its alliance with others and its struggle and ultimate victory are recorded here.

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P R E F A C E

There are many times when I wish that history accounted for first moments. All too often we are aware of the final phases of a social, political or economic movement, but we are unable to isolate the precise instant when such a movement began its thrust forward. Thus, we cannot be sure of the time, and we cannot give full credit to the one personality whose act set off the chain reaction that led, ultimately, to change.

A case in point is the topic of this paper. Having spent a considerable number of hours at the Hebrew Union College-Jewish Institute of Religion Library, going through that time-honored ritual of selecting appropriate texts, having spent more hours writing to officials in Washington and other cities in order to obtain original source material, having spent days reading and noting before attempting to write this paper, it would be greatly satisfying for me to be able to single out one instant and one person and say, with full scholastic confidence: "It was at this moment that he started the series of events which led to our nation's reversing its "open door policy" regarding immigration"; or, "At this moment in our history, he realized that the Jewish community must speak up so the entire nation would know that American Jewry opposed restrictive immigration policies."

But such is not the case. Rather, the purpose of this paper is to set the limits, to indicate, approximately, when, why and how prejudice crept into our national immigration policy as enunciated by Congress and to see the ways in which the American Jewish community reacted to these

fluctuating conditions.

From a legislative point of view, two statements can help establish these boundaries. It was Max J. Kohler who said before the House Committee on Immigration: "Congress has a right to overrule principles of humanity and equity, if it chooses; I do not dispute the legal proposition, but it surely ought not do so."¹ However, Congress did exercise its right to legislate in favor of prejudice, and this is where our study begins.

The other limit to our survey of this nation's immigration policy and the accompanying Jewish reaction might best be exemplified by a letter from Senator Philip A. Hart addressed to Dr. Arthur T. Jacobs, then the Administrative Secretary of the Union of American Hebrew Congregations: "We are at the end of the long road now that the Immigration Bill (of 1965) is signed by President (Lyndon B.) Johnson." The author of the most recent, and the most liberal immigration legislation continues: "For myself and many others who have worked with you, I want to say that I am convinced the success we realized would never have been possible if it had not been for the commitment which you and your associates made to achieve this proud day for America."²

So on the one hand, this paper will record the legislative and administrative policies which affected immigration - especially Jewish immigration - beginning in the latter years of the last century. On the other hand, it will bring into focus some of American Jewry's valiant efforts to guard against restrictive legislation. Once these lost battles are reported, we shall witness the struggle waged to right the wrongs

inflicted upon this nation and the world's oppressed peoples in order that these shores would once more serve as a haven from tyranny.

Admittedly, we have here a survey and not an in-depth historical account. However, I believe that there is sufficient evidence contained herein to support the thesis that the fears of economic decay and the resultant cancer of prejudice not only beset our nation throughout most of this century but seeped into the halls of Congress and, to a lesser extent, into administrative offices in Washington and New York. Of a secondary nature, but vital to our understanding of the struggle which is reported herein, we show that the matter of liberal or restrictive immigration became an arena in which there was an ongoing fight between the White House and the Congress, between those who fought to allow the Executive branch to exercise more control and those who fought to keep traditional checks and balances well in tow.

This fierce competition did much to destroy the image of our country as the "land of the brave and home of the free." Furthermore, it is my contention that liberal legislation was finally regained only after the American Jewish community united and helped to wage war against the forces of intolerance. Liberal immigration became a hallmark for those who believed that we had to preserve our nation as a moral and ethical instrument in the world community.

Before developing this thesis, I cannot continue without expressing a few personal comments: To our children, I hereby give permission to make noise in the house once more. To my mentor and sagacious guide, Dr. Jacob Rader Marcus, I can only say "thank you" with the heartfelt prayer

that he shall be kept in good health in the years before us, so many more of his "sons" can join us who continue to sit in awe at his feet and absorb his wisdom. To my dear parents, loved ones, and a host of friends, to Betty Finkelstein, who has typed the final draft of this work, to countless numbers of people in Cincinnati, Washington, New York, and other places, who have encouraged me and led me to sources which were of great help in documenting this work, I offer my deepest appreciation.

Allen Isaac Freehling
Hebrew Union College-Jewish
Institute of Religion
Cincinnati, Ohio
October, 1966

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I. PSYCHOLOGICAL AND SOCIOLOGICAL FACTORS

If we are to understand why the Congress of the United States has taken a number of contradictory positions with reference to immigration, and if we are to acknowledge the role of the American Jewish Community in reacting to these abrupt policy shifts, then we should first consider the phenomena of emigration and immigration, and the psychological and sociological factors appertaining thereto.

In explaining European emigration, Carlton C. Qualey lists the following specific "expulsive forces" that operated to drive people out of Europe:" (1) The prevailing rural poverty of the village economy of Europe, (2) The impact on agricultural Europe of industrialization, (3) The barbarities of labor conditions in the new, raw industrial towns, (4) The prevalence of political inequalities among masses of the population in contrast to the privileged classes, (5) The pietistic rebellions against the state churches and the rise of new sects, (6) Direct religious persecution such as that against the Jews, (7) Compulsory military service, (8) The promotional activities of agents of steamship companies, (9) The effectiveness of immigrant letters, (10) The influence of returned immigrants, as tangible proof of the advantages of immigration, (11) The increasing number of immigrant guidebooks to overseas territories, especially to the United States, and (12) The 'herd instinct' which took hundreds of families and individuals along with the groups, people who by themselves would not ordinarily had the courage to tear themselves away from accustomed environments."³

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As a way of testing these general observations more specifically, let us too turn to one of several European Jewish groups and weigh its experience against Qualey's list of "expulsive forces." While we could relate the history of Jews in Germany, Poland, Russia, or France, we call to mind the ordeal of the Jewish people of Austria, Hungary and in Roumania.

In Austria, the clerics and aristocrats had lost most of their authority in 1867. Much of their bitterness rested on the fact that the very constitution which reduced their stature gave legal equality to Jews and other hated minorities living in the empire. The former members of the power structure, therefore, joined in the clamor of the nationalists who spoke out against the Polish Jews of Galicia. These people were herded together in the larger cities, speaking their strange language, following their queer customs and resisting every attempt to assimilate them into the general society which sought to nationalize them.

Then there arose a financial crisis in 1873. Stemming from it were vicious attacks on the bourgeoisie generally and on the Jews specifically, who made up the largest number among the middle-class. The Christian Socialists denounced the Jews' control of land - they said that the Jewish landlords were not of "the families of the nation" but were "cosmopolitan financiers."

A political storm then arose; the Liberals withdrew their support of the government, and it, in turn, made concessions to the reactionaries in order to remain in power. Among the laws which were then enacted, to satisfy the clerics and aristocracy, were acts that debarred Jews from teaching positions and legislation that limited Jewish educational and economic opportunities.

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Vienna soon fell under the control of a notorious Jew-baiter, Karl Lueger, and his evil influence spread to other population centers. Meantime, there were outrages throughout the country, culminating in the riots of Prague in 1897.

In Hungary, too, clerics had spread their vicious anti-Semitic doctrine since 1867. But here liberalism was strong enough to buffer the winds of hate temporarily. Jews, because of their loyalty and patriotism, held high positions in the State, and even the large influx of Russian-Jewish refugees did not disturb the equilibrium. However, when the ignorant and superstitious populace was incited by the charges of blood libel in the eighties, Jewish life in the country was severely threatened. In 1881, a noted professor of Hebrew at the University of Prague declared that the murder of Christians for ritual purposes was part of a secret Jewish doctrine. Naturally, refutations were offered, but the masses remained unconvinced. A year later, a Christian girl disappeared from the Hungarian village of Tisza Eszlar and anti-Semites seized upon the event to prove that Professor Rohling had been correct. Fifteen Jews were arrested; however, the strong defense that was mustered for them proved to be so damning upon Hungarian hate-mongers that they were completely discredited.

Elsewhere, in Roumania, anti-Semitism needed no external stimulus; This backward country was Europe's most bigoted nation. Of five and one half million citizens, ninety-five per cent were peasants. The middle-class was made up exclusively of Jews who had filtered in from Austria, Poland and Russia during the eighteenth century. While the Turks had control of the country, the peasants were unable to take revenge on Jews,

who were disliked and envied because of their success in commerce.

But, at the turn of the next century, the Turkish sultan lost control of the land, and Roumania gradually freed itself. New landlords rose up from peasant stock and Jews were persecuted as never before. Jewish residences and occupations were limited and an entire code of discrimination, established in Russia earlier, was applied for the first time not by a benighted aristocracy but by the elected representatives of a constitutional state.

Jews were blamed for plagues and national misfortunes. Blood libels were charged. Persecution on a large scale began in 1867 when Jews were expelled en masse from villages.

After the Russo-Turkish war, the western powers agreed to make Roumania a sovereign state, and Disraeli was able to convince his fellow statesmen that this independence should be granted only if the new nation would guarantee full political and civil equality to all minorities. Roumania accepted this condition but found ways to evade it and, until 1902, only about eighty Jewish residents were admitted to citizenship. Meanwhile, Roumania's Jews were denied opportunities in professions, public service and free education.

With all of this as a background, is it any wonder that the number of emigrants from Austria-Hungary and Roumania participated in a prolonged exodus to America by the tens of thousands?

Now let us see why America served as a magnet for the persecuted.

Qualey cites the following "attractive forces" which drew people out of Europe: "(1) Land hunger and the knowledge that there existed millions of acres of rich farming land in the American and Canadian west,

Australia, New Zealand, Brazil, and Argentina, (2) A continuous labor shortage in the underdeveloped lands, especially in those areas, such as the United States, to which capital was migrating, (3) The attractiveness of more liberal constitutional-political systems abroad, such as in the United States, (4) The social equalitarianism of the new lands, (5) Religious and social utopianism, (6) Gold fever in Australia, South Africa, the United States and Canada, (7) The propaganda of official governmental agencies, such as state and provincial immigration bureaus, (8) The promotional activities of railroads, such as the Northern Pacific, with agents stationed in Europe, (9) Letters from immigrant-receiving countries enclosing remittances to help finance immigration of relatives and friends, and (10) The rapid establishment and spread of immigrant-American, immigrant-Argentinian, and other such communities, which formed points of destination and constituted transitional havens enabling immigrants to continue for a while in familiar patterns of life until the absorption into the new societies could be carried through, usually a generation or two later. These transitional cultures were highly useful and important in the acculturation process."

Now, what were the forces at play which fought the massive surges of immigration? Oscar Handlin explains: "The traditional community embraced a complex of comprehensive, integrated, cohesive, and self-contained institutions. In it, people worked out habitual patterns of action and thought. The community was traditional both in the sense that its forms reached back to times out of the minds of living men and also in the sense that it resisted innovations.

"The immigrants had destroyed that community in their coming to America. The shock of having done so and the adjustments necessary to

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compensate were their fundamental social experiences. Persistently, but unsuccessfully, the immigrants strove to restore their communities. But the disruption was irreparable, with profound effects for American culture in general."⁴

Handlin continues: "Historians have rarely perceived the tenacious grip on the inherited culture of the old community. In the 1840's and 1850's, for instance, the clusters of New England settlements across the country formed links in a chain that held together the reform movements of the period. One of the significant aspects of reform in those decades was precisely the effort to preserve the values of the Puritan community under the changing conditions of American society. These agitations often reveal an anxiety about the future and an intention to guard, even if in new forms, the ideals of the past - concerns that also emerge later in the prohibition crusade and account for the intensity with which that issue was debated in the 1920's and 1930's."⁵

So, too, the negativism and intolerance of the immigration restriction movement in Congress and of nativism in general become more comprehensible when viewed in the light of the motives of American anxious to prevent their world from changing. Narrow nationalism of this sort was the refuge of men frustrated in the effort to restore the old community. It had numerous counterparts among American groups; Fenianism and Zionism and a host of similar quests for a homeland embodied the same need for a community to which to belong.

All of that, of course, was futile. No group could restore the old community or preserve traditional values against the compulsive forces that transformed these people. Indeed, the very process of resistance

furthered change.

Yet, the struggle was not altogether without result, although not always the one anticipated. The most constructive consequences were those in which groups of men turned from the dream of a great all-encompassing community to fill some immediate need in their own lives.

Obviously, the problems faced by one immigrant group were similar to those which confronted another people. Each was met by an unfamiliar environment, strange faces, a foreign tongue, and a host of natives opposed to their being present.

Writing of the plight of Europe's emigrating Jewry, John T. Flannagan reports: "The new arrivals, who lingered in the neighborhood of Ellis Island, faced the same hardships and endured the same deprivations which had become familiar in their homelands. Jews from the grimy villages of White Russia or from the Warsaw ghetto generally stayed on New York's East Side and eked out a bare living as pushcart peddlers, sweatshop employees, or wage slaves in the garment industry. Crowded into noisome tenements, they were often evicted by greedy owners whom they (the immigrants) looked upon as 'American Cossacks.' Some, of course, by accident, determination, or superior intelligence rose out of the crowd to positions of prestige and affluence."

Now, why did group tensions mount and what was the result? Oscar and Mary F. Handlin make the following observations: "Social mobility has always been an important characteristic of the American scheme for living. A great deal of freedom in the economic structure has made room for the free play of talents and has permitted newcomers to make their way from

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the lower to the higher rungs in the occupational ladder. In the absence of an hereditary aristocracy, social position has generally accompanied economic position.

"Those who occupied the higher places, of course, always resented the competition from those who climbed out of the lower places."⁷

But the democratic nature of American society made it difficult to establish permanent barriers. In the nineteenth century, artificial restraints had broken down beneath the pressure of the necessity for cooperation at all levels of the community. Furthermore, constant expansion in the economic and social structure of the nation made room for newcomers without lowering the position of those already well established. In fact, it often happened that a rise in the level of the immigrants and their children lifted even higher the positions of all those above them.

The earliest encounters of the Jews with this feature of the American social system were not unlike those of members of other ethnic groups who passed through the same process. In adjusting to the American economy, some groups moved upward much more rapidly than others. The Jews were among those who advanced most quickly in earning power and social position. Their special difficulties arose from the circumstance that they seemed singularly to rise faster than other peoples of recent immigration origin. This success in mobility came at a time when the earlier immigrant groups of the later eighteenth and nineteenth centuries had chosen to forget their own swift rise and the extraordinary accumulation of great fortunes characteristically found among them.

All who mounted the economic ladder earned the resentment of the

well-established; but, in their rapid climb, the Jews seemed to be interlopers, out of place, more often than earlier outsiders moving in the same direction.

Economic power in America was usually enveloped in certain symbols of prestige and position; e.g., good family, membership in the appropriate churches and associations, residence in select districts, and participation in communal activities. Success by Jews was resented, not only because the success of every new arrival seemed to leave less room for those already entrenched, but also because success in their case was not graced with the proper symbols. It did not take the proper form.

And thus it was that Jews were subjected to discrimination which was aided and abetted by the Congress of the United States.

II. GENERAL HISTORICAL BACKGROUND

To better appreciate the ebb and flow of liberal and restrictive immigration and legislation and the activity of the American Jewish community as a result of such Congressional ambivalence, a brief general historical review seems appropriate.

It is obvious that the growth and prosperity of the United States, for much of its history, depended upon a series of waves of immigrants sweeping across the Atlantic to these shores. Among the immigrant groups which first came here were Jews, beginning with their settling in New Amsterdam, later New York. A group of twenty-three refugees arrived in 1654, on the "St. Catarina." They were so poor that they had to sell their personal belongings to pay for passage on this ship. Peter Stuyvesant, the colony's governor, at first refused to permit the derelicts to land, but he was later ordered to do so by his employers, the Dutch East India Company, several of whose important stockholders were Jewish.

The Jews who settled in New Amsterdam had to fight for all their civil and political rights, which Stuyvesant was unwilling to grant them. Even when the territory was captured by the English in 1664, the Jews' position was less than adequate. Until 1727, no Jew could be naturalized, and in 1737 the New York Assembly decided that Jews could not vote for assemblymen.

Meanwhile, further north in New England's colonies, Jews lived in smaller numbers and enjoyed a semblance of economic freedom, but they were forbidden to share in the area's political life. Even in Rhode Island, where Roger Williams established a colony proclaiming tolerance for all groups, the Jews were distinguished from all other groups. For instance,

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in 1684, the General Assembly resolved: "They (the Jews) may expect as good protection here as any stranger, being not of our nation, residing among us in His Majesty's colony, ought to have, being obedient to His Majesty's laws." Yet, because of its more liberal attitude, Rhode Island drew Jewish immigrants from Europe to its chief cities, Newport and Providence.

Elsewhere, few Jewish settlers converged on the southern colonies, with the exception of Georgia and South Carolina. So, up to the American Revolution there were scarcely twenty-five hundred Jews in the whole country.

Soon after the Revolutionary War was ended, most of the former colonies changed their charters or constitutions and placed all groups on a common footing. In a few instances, considerable pressure had to be applied to permit Jews the tenets of freedom granted others. This was specially so in Virginia, North Carolina, and Maryland. The latter state was the last of the former colonies to retain religious restrictions linked to the holding of public office.

When the new United States Constitution was drawn up, providing for "No religious test shall ever be required as a qualification to any public office or public trust under the United States," and "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof," North Carolina protested. Its leaders were fearful of Catholic influence. Obviously, Jews could have been prevented from holding public office, too, had this protest been effective. North Carolina failed in its attempt to make this solely a Protestant nation and all men were given their freedom at the founding of our national governmental system.

This climate of liberty served as a powerful magnet; the Jewish population increased steadily after 1815. The bulk of immigrants came from Germany, where Jewish communities were being persecuted.

The peak of German-Jewish emigration came in the few years after 1848 - political rebellion broke out in the "fatherland" while, simultaneously, in religion, Jews strove for new reforms. Their political efforts failed in 1849 and thousands of the Jewish rebels were forced to leave their homes and join in the exodus to the United States. By 1880, when this tide began to recede, America's Jewish population had grown to a quarter of a million people, of whom the vast majority had emigrated from Germany and Austria.

While the United States was preparing to embark on its Civil War, which found American Jews taking opposite points of view, depending on the geographic positions of their newly adopted homes, conditions in eastern Europe were worsening. When conscription was established in Poland in 1845, a new wave of immigration began to materialize. A Polish rebellion failed in 1863; Russian serfs' emancipation all but wiped out Jews' economic growth potential. These and other related factors compelled Jewish immigrants by the thousands to come here. In 1872, for instance, in New York City alone, there was a Jewish population of some seventy thousand.

Then in the 1880's, once the epidemic of pogroms began to spread throughout Russia, whole communities emigrated, resulting in America's Jewish immigration rate climbing beyond 20,000 per year. The next ten years found Russia expelling Jews ruthlessly, so that some 600,000 Russian and Roumanian immigrants brought the Jewish population in the United States

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to about a million. This number was almost doubled as a result of additional pogroms, the Russian Revolution and the massacres by the Black Hundreds after the first decade of the 1900's.

It was at this point in our history that many American leaders became alarmed. They feared that the nation's original stock would be submerged and that the high standard of living, characteristic of the American worker, would be forced down in competition with cheap foreign labor. Elsewhere in this paper, the reader will see the kinds of restrictive immigration laws which were proposed in Congress and how these measures would have become the law of the land were it not for the constantly humane efforts of Presidents, Grover Cleveland, William Howard Taft, Theodore Roosevelt and Woodrow Willson, who exercised their veto power without exception.

While the forces of restriction and liberalism were pitted against each other in the halls of Congress, with the American Jewish community battling on the side of a continued liberal national policy, tens of thousands of Jewish immigrants continued to pour ashore, swelling the ranks of available industrial laborers. Unlike their early predecessors, they did not earn their livelihood primarily as merchants.

With the coming of World War I, Jews in eastern Europe were caught in a power struggle between Germany and Russia and millions fled the new reign of terror. Economic relief was provided by many who had been fortunate enough to migrate earlier to the United States. When the war ended and peace treaties were signed, a massive horde of European Jews attempted to come to America, but they were blocked by restrictions finally enacted by Congress and sustained over Presidential vetoes.

Soon, as economic conditions throughout the world began to deteriorate, Adolph Hitler and his gang of hooligans were able to gain control of Germany. Anti-Semitism spread throughout the new republic, despite internal and external protests. Jews were dismissed from all public posts; they were purged from all professional societies and a nationwide pogrom ensued. As the influence of Hitler moved east, attacks upon Jews increased alarmingly; most of those who did not escape were destined to die the death of martyrs.

Meanwhile, the American Jewish community, with a sympathetic President Franklin D. Roosevelt in office, was able to pry the port of entry doors open - doors that had effectively kept immigration down to a minimum - allowing escapees from a hate-filled, war-engulfed Europe to find a refuge and sanctuary.

One would suppose that the world's experiences with genocide, as practiced by Nazi Germany during World War II, would have paved the way for a more reasonable attitude among America's national legislators regarding our immigration policy. Surely these members of Congress were well aware of the fact that had not the Administration circumvented laws prior to, during and immediately after the war, countless more European Jews would not have been able to escape the traps Hitler had laid - additional tens of thousands would have been forced to join the martyred six million who were slain.

But the foes of a liberal immigration policy held fast. And they were prompted by a new fear: They were convinced that if more than a handful of Europe's displaced persons were to come here, they would bring with them the scourge of Communism. As Senator Henry Cabot Lodge had

served as the legislative proponent of restrictive measures during the first two decades of the twentieth century, Senator Pat McCarran led those who opposed liberal legislation in the forties and fifties.

This paper traces their infamous achievements and it records the efforts of the American Jewish community and its sympathetic friends to dismantle the walls which were erected in order to keep immigrants out.

It took the united effort of the American Jewish community along with its liberal allies from all walks of life, plus the persistent prodding by Presidents Harry S. Truman, Dwight D. Eisenhower, John F. Kennedy and Lyndon B. Johnson to defeat the restrictionist bloc in Congress.

This paper will now trace the rise and fall of those forces which arose in America to prevent refugees from finding shelter here.

III. A CHRONICLE OF IMMIGRATION LEGISLATION

Now that we have probed some of the psychological and sociological factors behind the immigration phenomenon, recognized the reasons why people resisted immigration, and reviewed some general historical factors, it would be well for us to trace the government's attitude regarding the influx of foreign peoples since the country was founded as an independent state.⁸

From the beginning, ours was a hospitable country which fostered immigration. Even as the colonies were breaking away from Great Britain, the founders of this new nation spoke out against British mercantilist policy toward immigration; and, one of the great innovations of the Constitution made the United States stand squarely in favor of civil rights and in sympathy of religious and ethnic differences. This religious and racial freedom served as the stimulant for immigration, as is noted in the ordinance for governing the Northwest Territory. In 1792, Alexander Hamilton wrote: "A perfect equality of religious privileges will probably⁹ cause (immigrants) to flock from Europe to the United States."

Soon after the Constitution was adopted in 1789, Congress passed the country's first immigration legislation. This was the Alien Act of 1798, a part of the Alien and Sedition Laws, which enabled the President to order the departure from the United States of any alien whom he deemed dangerous to the nation. This legislation proved to be unpopular and it was not renewed at the expiration of its two-year term. Subsequent acts of Congress, beginning in 1819, sought to encourage immigration chiefly by improving conditions on the vessels that brought immigrants to the

United States. But, up until the post-Civil War period the individual states, especially those with ports of entry, took a more active concern with immigration policy than did the Federal government.

From time to time, especially when economic depression struck, there were attempts made to stem the tide of immigrants; when some states became impatient with the lack of interest in Washington to pass restrictive measures on the Federal level, they passed their own local bills regulating the admission of aliens. However, in two landmark decisions the Supreme Court of the United States declared all such state laws to be invalid on the ground that they were an unconstitutional attempt to regulate
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foreign commerce.

While several states fought for restrictive legislation, Congress continued to promote immigration. The Homestead Act of 1862 opened up western lands to both immigrants and the native born and the Contract Labor Law of 1864 legalized advancing passenger money to immigrants. Labor protested this measure and it was repealed in 1866.

Abraham Lincoln was nominated for the presidency at the same Republican Party convention which declared: "Foreign immigration which in the past has added so much to this nation - the asylum of the oppressed of all nations - should be fostered and encouraged by a liberal and just
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policy."

Following the Civil War, newcomers were encouraged to settle in the south. While not many found the south attractive, the major area of interest became the west. Railroads had made it possible for peoples to flow from the Atlantic seaboard all the way to the Pacific coast.

Finally, the clamor for restrictions, emanating from the states,

was heard in Washington. The admission of convicts and prostitutes was prohibited in 1875. This measure served as a prelude for the first general immigration statute, which was enacted on August 3, 1882. That act provided for a head tax of fifty cents per immigrant and barred the admission of idiots, lunatics, convicts and persons likely to become public charges. Simultaneously, Congress authorized the deportation of alien contract laborers within one year of entry. Furthermore, the first Chinese exclusion law was passed (it stirred great opposition but remained on our statute books until it was repealed in December, 1943).

In 1885, the labor movement, in an attempt to stem the flow of cheap labor into America, mounted a campaign of high pressure and Congress yielded by enacting the nation's first anti-contract labor law. This measure helped to depress the labor market in the United States. Companies which had been able to recruit large numbers of foreigners in their native lands and then bring them to the United States under their sponsorship were prohibited henceforth from doing so. Thus, this measure helped to deplete the labor market in America while making available laborers more valuable and, therefore, recipients of higher wages. This condition was precisely what the labor movement's leadership had in mind from the outset.

In 1893, the Supreme Court declared all of these initial immigration measures to be constitutional.

A general immigration law, passed in 1891, provided for medical inspection and added to the excludable classes persons suffering from a loathsome or dangerous contagious disease, those previously convicted of

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a criminal offense involving moral turpitude, paupers and polygamists. This same law provided for the deportation of all unlawfully entered aliens. Two years later, Congress established boards of special inquiry and required furnishing of manifests listing all passengers aboard vessels entering United States ports.

Three years after the turn of the century, epileptics, insane persons, professional beggars and anarchists were added to the list of unwanted immigrants. In 1907, the categories of excludables was expanded again to include the feeble-minded, children under the age of 16 unaccompanied by their parents, persons suffering from physical or mental defects that might affect their ability to earn a living, and those who admitted the commission of a crime involving moral turpitude. Yet, with all these restrictions, immigrants swept ashore by the thousands - 1,026,000 in 1905 alone - and when economic conditions worsened, the demand for more prohibitions mounted.

A commission was appointed, in 1907, to study the problem; its 42-volume report was rendered in 1911 and served as the basis for an immigration bill in 1917. It was vetoed by President Woodrow Wilson but overridden by Congress. This measure codified all previous acts relating to exclusions and added two significant provisions: A literary requirement, and the automatic exclusion of persons coming from a designated geographical barred zone (most of Asia and the Pacific Islands). Additionally, the powers of immigration officers were defined and broadened, and discretionary power was given to the Secretary of Labor, who could admit certain excluded groups in meritorious cases (the Attorney General now has this authority). The Act of 1917 also called for the immediate deportation of any aliens

who had entered in violation of the law and those who committed certain serious offenses.

It should be noted that immigration measures through the Act of 1917 were concerned with the quality and/or character of the immigrant - the number of aliens was not yet limited. When World War I ended, and a mounting number of immigrants poured into America from Europe, fear enveloped the United States; many thought that Europe's emigrants would engulf the nation in a tidal wave, overwhelming the labor market, ruining city social structures, and bringing down America's economic bulwarks.

In response to this fear, the Quota Act of 1921 was enacted. Initially intended as a temporary measure, it introduced the principle of numerical limitation into our immigration laws. It permitted the admission annually of three per cent of the number of persons of each nationality residing in the United States in 1910.

This "temporary" law was replaced by a permanent quota law in 1924. The nation's second major immigration statute, regulating the admission and deportation of aliens, limited quota immigrants to about 150,000 per year - the annual quota for each nationality group was based on the number of persons of their national origin in the United States in 1920. The 1924 Act also required the advance procurement of immigration visas by aliens who sought to enter the United States.

The third major measure dealing with immigration was the Alien Registration Act of 1940, which extended the deportable classes so as to include certain criminal and subversive groups. It provided suspension of deportation in the cases of certain resident aliens of good character,

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and, for the first time, required the registration and fingerprinting of all aliens who were in the United States or who sought to enter as immigrants.

In the Internal Security Act of 1950, restrictions providing for the exclusion and deportation of aliens who were potentially dangerous to the national security were greatly expanded.

The fourth major piece of immigration legislation was the Immigration and Nationality Act of 1952. It was designed to repeal most of the existing laws and to recodify that which remained on the books. It omitted some of the provisions of the earlier laws governing the importation of contract laborers and barring immigration on racial grounds - outmoded primarily because of the effectiveness of the quota restrictions. In addition to codifying principle classes of excluded aliens, it added others; e.g., narcotic drug addicts, persons convicted of two or more offenses, whether or not involving moral turpitude, if the total sentence to confinement was five years or more, and certain classes of immoral persons.

This act, for the first time, specified the administrative process by which the deportation of aliens would be determined and it modified the admission and exclusion process. With reference to quota restrictions, while the annual quotas remained substantially the same as under the previous law, the first fifty per cent of the quota from any quota area was made available, on petition, to certain highly skilled or educated persons whose immigration would be beneficial to the economic or cultural interests of the United States - the remaining fifty per cent was made available on petition to designated close relatives of United

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States citizens or lawfully admitted aliens.

Only to the extent that these preference groups did not exhaust a particular quota, could there be any self initiated immigration from that quota area. Alien husbands of United States citizens were accorded the same quota-exempt status as was previously enjoyed by alien wives of citizens of the United States.

Upon the basis of approved petitions, persons needed to perform temporary services could be temporarily admitted to the country. Rigid controls were provided over alien crewmen.

The grounds for deportation of aliens, appearing in former laws, were codified. The eligibility of deportable aliens for suspension of deportation was circumscribed with additional requirements and safeguards, but the classes of aliens, generally, who might establish eligibility for suspension were enlarged. Elsewhere in the act, the Attorney General was granted authority to withhold deportation of an alien to any country where, in his opinion, the alien would be subject to physical persecution.

The Attorney General, in a measure enacted in 1957, was empowered to admit certain aliens of the criminal and immoral classes who are closely related to citizens or lawful resident aliens, and whose exclusion would result in extreme hardships to such relatives but whose admission would not be contrary to the security of the United States.

The Act of 1952 was further amended in 1958, as a way of clarifying the status of European emigrants who were obligated to cite a permanent residence when they were unable to do so because of their displacement during World War II.

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A statute approved in 1959 provided for the inclusion of unmarried sons and daughters of aliens lawfully admitted for permanent residence in the third class of quota preferences - brothers, sisters and married children were given a larger share in the quota formula as well.

In 1961, the Congress rewrote the entire section of the Act of 1952 dealing with relatives of aliens to be admitted, incorporating into the revision those provisions enacted subsequent to 1952. Also, in 1961, as a part of the Peace Corps legislation, provisions were made so as to permit foreign nationals to come into the United States temporarily to instruct Peace Corpsmen. Later that same year, Congress established a new procedure for judicial review of an order for deportation.

In 1962, legislation was passed reducing from five to two the classes of aliens whose status may be adjusted to permanent residence by suspension of deportation: those here seven years who are deportable for technical reasons and those here ten years who are deportable for more serious causes.

However, the most important immigration measure since the general Act of 1952 was the law passed in 1965. Its major purpose was to abolish the national origins quota system, which had become part of our way of life in 1924.

Here are the principle changes brought about in 1965: Until July 1, 1968, the quota provisions stipulated in previous legislation remain in effect. But, then the national quota system will be abolished and the annual quota for immigrants will be on a world-wide basis. In the meanwhile, the unused portion of any quota for any quota area for the years 1965, 1966 and 1967 will be placed in a pool, from which visas will

be issued without regard to the country from which the alien comes. Such visas will be issued in order of preference prescribed generally for immigrants by the new law; i.e., the annual quota is fixed at a maximum of 170,000 and the number of immigrants from any one country will not exceed 20,000 per year - immediate relatives of United States citizens are not included within the quota limitations.

Visas to immigrants, who are neither immediate relatives or special immigrants (those admitted for permanent residence but then travel abroad, certain former citizens seeking reacquired citizenship, ministers and their spouses and children, former employees of the United States and their spouses and children, natives of an independent country of the Western Hemisphere or the Canal Zone and their spouses and children) are issued to admissible aliens according to preferences and portions of the total quota in the following order: Not to exceed seventy-four per cent to the relatives of United States citizens and resident aliens in varying degrees, twenty per cent will be assigned to persons with skills and talents needed in the United States, and six per cent will
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be made available to refugees.

Visas not required for the foregoing preference immigrants or for conditional entrants are available to other eligible immigrants strictly in the chronological order in which they qualify and without regard to race or national origin; however, the Secretary of Labor must certify that the coming of such aliens will not adversely affect similarly employed persons in the United States. The Act authorizes the Attorney General to withhold deportation to any country in which, in his opinion,

the alien would be persecuted because of his race, religion or political opinion.

In the excluded classes, the term "mentally retarded" has replaced "feeble-minded," "epilepsy" is stricken and "or sexual deviation" is inserted. Prior law providing for admission under safeguards of close relatives of citizens, permanent residents, or those to whom an immigration visa has been issued, who are otherwise excludable because they are afflicted with tuberculosis, has been amended to provide also for the similar admission of those who are mentally retarded or who have suffered attacks of mental illness.

Finally, a commission is provided to study and report to the President and to Congress on or before January 15, 1968, as to what changes should be made, if any, concerning the limitation of immigration from the countries of the Western Hemisphere. Unless otherwise provided by Congress, the total immigration from the Western Hemisphere, exclusive of immediate relatives, on and after July 1, 1968, will be 120,000 annually.

This, then, is the historical background for our nation's immigration policy, as illustrated by enacted legislation. We now go beyond the statute books to observe the making of law and Jewry's response to Congressional activity in the field of immigration.

IV. RESTRICTIVE LEGISLATION AND THE REACTION
OF THE AMERICAN JEWISH COMMUNITY

Now that we have noted the official policy decisions of the United States government, primarily reflected in immigration legislation through the years, let us attempt to discover just why and how the American Jewish community reacted to these laws.

As a matter of convenience, the past is divided into periods:

A. From Early Days to 1910

Setting the stage for mounting tensions, we refer to an explanation for the influx of European immigration as offered by the American Jewish Year Book in 1902: "The petty persecutions, to which Jews were subjected in Germany after 1730, resulted in the emigration of a large number to America, chiefly to New York, Pennsylvania, and Georgia." ¹⁴

With reference to the early Jewish settlers in Georgia, it is interesting to note that there is virtually no early Jewish history in the southern colonies, for only a few individuals drifted into the territory before the American Revolution. Georgia is the exception, because soon after the colony was founded by Oglethorpe in 1733, forty Jewish immigrants arrived. From material available, we gather that they were heartily welcomed by the liberal governor, despite the fact that he knew that some of the trustees of the colony were not anxious to have Jews settle there. As a result of this early effort, one of America's oldest Jewish congregations was founded in Savannah.

The American Jewish Year Book continues: "The first Polish Jews came to America in consequence of the unhappy state of affairs prevailing after the first partition of Poland in 1772. America, after the Revolutionary War, held out alluring prospects of liberty to the harassed

Polish Jew, and after 1783 a fresh stream of immigration was started.

"From that time on, there was a steady flow of Jews to America from Germany, principally from Bavaria and the Rhine provinces. It was greatest between 1848 and 1850. By 1870, it ceased to be an important factor.

"The most marked immigration was the Russian-Jewish. In 1882, Russia passed proscriptive laws against the Jews more stringent than any to which the Jew had ever been subjected. A small number sought refuge elsewhere, but the great bulk came to the United States. The addition of this vast number has made the Jewish population of the United States third in the world, being exceeded only by that of Russia and Austria. The proscriptive laws recently issued by Roumania have started a migration from that country, but the event is too recent to estimate its full significance."

Having looked earlier into the psychological and sociological factors that interact when a community or nation is undergoing great change, we have no reason to be surprised to learn that a segment of the American populace prepared to do battle - finally within the halls of Congress - to see that waves of immigration were checked. Here is how Robert A. Divine describes what occurred: "The agitation for restriction developed on two levels in the 1890's - a purely emotional appeal to nativist sentiments and a more reasoned argument directed toward thoughtful people.

"The nativist side can be seen in the activity of the American Protective Association, which grew up in the Middle West in the late 1800's. Playing upon existing prejudices against aliens and Catholics,

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the A.P.A. stirred up much bitter feeling without achieving any of its legislative objectives. At the same time, in the east, prominent intellectuals were leading a movement for restriction. One of the earliest of these restrictionists was General Francis A. Walker, president of the Massachusetts Institute of Technology, who stressed the seriousness of the immigration problem in his presidential address to the American Economic Association in 1890.¹⁵"

The founding of the American edition of the "Review of Reviews" provided the restrictive movement with an organ which continually emphasized the dangers of free immigration. The restrictionists were well under way by 1894, when John Fiske, Nathaniel Shaler and Senator Henry Cabot Lodge organized the Immigration Restriction League in Boston. For the first time in American history, responsible men with national reputations were leading a serious campaign to limit European immigration.

It is important for our study to note the role which Henry Cabot Lodge played in demanding that restrictions be placed on immigration. One might say that the Massachusetts political leader and United States Senator was reflecting his area's concern over the influx of cheap labor, which would affect the balance of supply and demand in the industrial centers on the east coast.

Or, one might speculate that his continuous activities were stimulated by his dread of change. We have given ample evidence in this paper that individuals, as well as groups, resist changes in the social order, no matter what the circumstances might be.

But, we are of the opinion that Senator Lodge was motivated by entirely different motives: Any student of American history of the late

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1800's and early 1900's will find that Senator Lodge, almost without equal, fought for the sovereignty of the Congress, above and beyond the authority of the executive and judicial branches of our government. Being a wary conservative Republican, and seeing that more and more power was being put into the hands of the President, Senator Lodge challenged what he considered to be the usurping of congressional authority.

It is our contention that the Massachusetts law-maker needed a cause with which to wage his fight, and that immigration proved to be a convenient battleground. While history may record and repeatedly dramatize the Lodge-Wilson confrontation over the League of Nations, it is our belief that the pitched battles fought by Lodge against all administrations over the matter of immigration policy is far more indicative of what motivated him to act.

Simply stated, if any administration favored liberal legislation because of its regard for human welfare and national growth, Senator Lodge stood in opposition, not out of prejudiced, hate for or fear of the immigrant or for what the influx of immigrants might do to the labor market; rather, it was an issue over which he and the White House could fight for power.

Such a situation is not unique in America. In the past, other legislators have challenged the administration, and, even in our own day, we find members of the Congress taking contrary views as a way of keeping administration power in check.

Returning to Divine's summary of what occurred toward the turn of the century: "The immediate objective of the opponents of immigration was the passage of a literacy test law which, though ostensibly selective in theory, would prove restrictive in operation. Such a bill was proposed

in Congress in 1896 and passed both houses by overwhelming margins. President Grover Cleveland vetoed the bill terming it a 'radical departure' from previous policy. The veto was overridden in the House of Representatives, but the support of southern senators sustained it in the upper house."

Agitation subsided for a few years with the return of prosperity and the shift of public attention to war and imperialism. The principle of individual selection was reaffirmed in the law of 1903, which added to the excluded list epileptics, beggars, anarchists and all who believed in the forceful overthrow of the government.

An attempt to pass a literacy test provision in 1907 was defeated by the expediency of creating a commission to investigate the immigration question and make recommendations for future legislation.

While the nation's attention was diverted to other matters, the restrictionists continued to press for a literacy test, as a way of curtailing eastern European (Jewish) immigration. Their dislike for eastern Europeans was matched by their distaste for people from the southern countries of the Continent; unfortunately, both groups were illiterate to a certain extent, providing fuel for the restrictionists' fire. For example, Mark Wischnitzer cites the following statistics: "Immigration figures for the period 1899-1909 showed a high percentage of illiteracy among teenage and adult immigrants from southern Italy (54 per cent), Roumania (34.7 per cent), and Poland (35.4 per cent), as compared with immigrants from Germany (5.1 per cent), Great Britain (1.1 per cent) and the Scandinavian countries (.4 per cent). In the view of the anti-immigrationists, this was further proof that the literacy test would 'combine the requirements of restriction, individual selection and group selection.'"

Restrictionist attitudes were not limited to the United States but were prevailing in England also. Here is a view reported in the American Jewish Year Book: "There is something in Anglo-Saxon manhood in the self-assertion with which we meet alike in the Jew of England and the Jew of America. There are the same problems, too, of 'alien' immigration and ghetto overcrowding, and the ferment of religious earnestness in England again and again avails itself of American precedent.

"The Royal Alien Immigration Commission concluded its hearing of testimony on May 21, 1903, having examined 184 witnesses in the course of sessions which occupied 49 days; the question of the benefits or injuries from alien immigration was gone over with the utmost thoroughness; the greatest practicable freedom was afforded those who wished to testify on both sides; not the faintest token of partiality could be charged to the methods of the commissioners. (NOTE: Compare this observation with the emotions provoked by the commission established in the United States in 1907 - see below.) A good deal of animosity was exhibited by those who considered their interests injured by immigration, the word 'alien' proving, in most cases, a thin disguise for Jew; but also much impartial praise was freely yielded to the virtues of the Jewish immigrant by Gentiles who had come in close contact with him. The Commission handed in its report on August 11, embodying distinct recommendations to exclude certain undesirable classes of immigrants. So far as the details of the report have become known, the restrictive measures proposed seem to be clearly modelled upon American patterns, though they are thought to be somewhat severer."

The Jewish community in America took two simultaneous steps in an

attempt to halt the spreading attitude favoring restrictions in immigration which would serve to curtail migrant Jewish access to the United States. The American Jewish leadership sought to improve the education level of the immigrant as soon as he arrived, while simultaneously waging a public debate with the restrictionist bloc. An article appearing in 1903 summarizes this: "One of the great aspects of the whole vast immigration problem is thus nearing solution: The bringing together, under the auspices of American culture, of the diverse elements that make up American Jewdom. With what unexpected dangers this problem is fraught becomes startlingly clear in the imperative need which has arisen in New York (as it did in London) for a Jewish protectory. However indifferent we might be to other distinctions in which the Jew once gloried, we cannot afford, without a determined effort, to allow to pass from us the splendid record for the lowest rate of criminality which has so long been the Jew's rightful boast among all nationalities. It is a most cheering sign that an American of the younger generation, Mr. Louis Marshall (one who carried the Jews' cry for liberal legislation to Congressional committees and on to public platforms) should have indicated (at the Chautauqua Summer Assembly) the way towards redemption: That there should be religious education for the children of the immigrant, to steady the unformed character against the dangerous shock of radical revolution and environment."

The Central Conference of American Rabbis also cited the need for educating the immigrants' children, while speaking up in favor of the "open door" policy, as a way of blunting the restrictionists. For instance, they resolved in 1904: "That children should be brought under the influence of America" so as to have the image of the stereotyped immigrant blotted out as fast as possible. Also the Reform rabbis said: "It might be wise

for this Conference to devise means for making its influence felt in helping to form public opinion in favor of justice to the oppressed." ²⁰

While the opinion of the public was important, the leadership of the Jewish community recognized that the immediate target for its united efforts had to be the Congress, where on May 20, 1896, a bill (calling for a literacy test) passed the House by a vote of 195 to 26; and on December 17, 1896, it passed the Senate by a vote of 52 to 10. The votes in each case were not in the least on party lines. On January 21, 1897, a bill was reported out of conference, similar to the bill as it finally passed except that it required immigrants to 'read and write the English language or the language of their native or resident country.' The opposition immediately discovered that this form of wording would exclude a large portion of the Jews, Yiddish not being a language of any recognized country. ²⁰

Immediately, there was an emphatic protest from influential Jewish bankers in New York City and from other prominent Jews, and Congress deemed it advisable to restore the original wording of the bill requiring the reading and writing of the "English language or some other language." ²¹

This was the measure vetoed by President Cleveland. One wonders how much he was impressed by pleas from American Jews and/or by overtures from steamship lines which protested against the measure that would restrict immigration "almost to the extent of total exclusion." ²²

While foes of the restrictionists were attempting to keep a literacy test off the books, those favoring the curtailment of eastern European immigration forced through other restrictive clauses. On May 23, 1906, the Senate passed what was known as the Dillingham Immigration

Bill, "the most important features of which are an increased head tax - from two dollars, as enacted March 3, 1903, to five dollars - and an educational test. Besides, the Bill contains administrative features of a drastic character, conferring, in particular, great power upon the medical examiners at the ports of immigration."²³

This Bill was received in the House of Representatives on May 24, 1906, and referred to the Committee on Immigration, which reported it, in amended form, on June 11, 1906. The debate on the amended bill, then known as the Gardner Bill, closed in the House on June 25, 1906, with the result that the head tax was placed at two dollars, and the literacy test was eliminated. In addition, a clause was inserted designed to exempt the victims of political and religious persecution from restrictions imposed by the measure.

This breath of liberalism was supported by the leadership of the American Jewish community, as is seen in testimony reported in the next sub-section of this unit.

However, legislative activity was only one area of danger - conservative (if not outright prejudicial) administration of current immigration laws proved to be restrictive, as well. The following comments illustrate this point: "No serious attempt was made in the period under review (1908-09) to enact restrictive legislation, and a distinct improvement in the regulations affecting the transit through Germany of Russian emigrants may be noted. But Robert Watchorn, the efficient and liberal Commissioner of Immigration at Ellis Island, resigned shortly after President Taft assumed office, and was succeeded by William Williams, his predecessor at the post."²⁴

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The latter was less liberal in his interpretation of the law, and his ruling, that those immigrants not traveling to near relatives must have \$25.00 in cash in their possession to obviate the likelihood of becoming public charges, had been severely criticized in the press and even made the subject of review before Federal courts.

To prevent Williams and others like him from having such personal latitude, in 1910, the American Jewish Committee, the Board of Delegates on Civil Rights of the Union of American Hebrew Congregations and the Independent Order of B'nai B'rith joined forces in recommending improved administrative procedures. Among their proposals were: "(1) Immigrants arriving at United States Ports are entitled to due process of law in form and in substance, on their application for admission. The present law requires that decisions of Boards of Special Inquiry shall be 'rendered solely upon the evidence adduced before the board of special inquiry' in the presence of the immigrant or his counsel, so that the immigrant may know what he has to meet. Departure from this requirement to the prejudice of the immigrant are of frequent occurrence and should be effectively prevented. (2) The right of the immigrant to counsel before Boards of Special Inquiry should not be denied, and the hearings should be public as recommended by the Ellis Island Commission of 1903. (3) The methods of hearing appeals should be improved, including the granting of reasonable opportunity to the immigrant, first, to see the evidence, and, second, to offer new evidence and submit briefs. (4) The provisions of the Act of 1891, reenacted in the present law, forbidding judicial review of the determinations of executive officers excluding immigrants, should be

repealed insofar as to prevent judicial review of questions of law merely, but not of questions of fact. (5) The Secretary of Commerce and Labor and the Attorney General should jointly prepare and publish a compilation of judicial decisions and opinions rendered by the Secretary of Commerce and Labor and his legal advisers, for the guidance of immigration inspectors and the public generally. (6) Appointments to Boards of Special Inquiry should be made by the Department of Commerce and Labor, and should not be limited to immigration inspectors. These officials should have adequate salaries, in order to secure efficient service. (7) A circular letter issued by the Commissioner General of Immigration, dated June 21, 1910, as to the provisions of the law, concerning the detention of immigrants for hearings before Boards of Special Inquiry, has lately enormously increased the number of unjustified exclusions. (8) The assisted immigrant and pre-paid ticket provisions of the statute should be amended by omitting the confusing 'burden of proof' provision. The provision should be recast so as to carry out the intent of the framers by confining it to contract labor cases of immigrants whose passage has been prepaid by 'corporations, associations, etc.' (9) The provision of the law concerning likelihood to become a public charge should not be construed or modified so as to prevent the continuance of the established and salutary practice of permitting the heads of families to come to the United States, in order to establish themselves here as breadwinners and to provide homes for their families before sending for them from abroad. (10) The discretionary power under the statute lodged with the Secretary of Commerce and Labor

to permit landing of immigrants 'upon the giving of a suitable and proper bond or undertaking' should be freely exercised. Under present regulations, this discretionary power is seldom availed of, though it is of great service in many cases and essential in others to avoid unwarranted hardships, if not cruelty. (11) The provision as to admission of children under sixteen years of age unaccompanied by their parents, has lately led to many oppressive and unwarranted exclusions and should be modified.

(12) Boards of Special Inquiry and immigration officials in general should keep correct and full records of all detention cases coming before them; such records to be open at all times to inspection by parties in interest who ought to have the right to make copies of records. (13) Where decisions of the Boards of Special Inquiry excluding immigrants are affirmed on appeal, the immigrant or his counsel should have at least 48 hours' notice prior to deportation. (14) [a] Medical examiners, in accordance with law, should report strictly upon the medical facts of each case, and should not include in their reports any other statements whatsoever. [b] Physicians of the Marine Hospital Service should be instructed in official circulars as to their duties, so as to prevent divided responsibility for deportations because of mental or physical defect. [c] The present statute making decisions of medical officers final even as to an alleged physical defect being likely to affect an immigrant's becoming a public charge, should be modified by making the decisions reviewable by appeal on such points." 25

It is obvious that administrative practices which negatively affected Jewish immigrants were widespread and thus prompted these detailed recommendations.

So, as the first decade of the twentieth century ended, Congress was on the brink of passing a literacy test and other restrictive measures. Meanwhile, certain administrators were bending the letter of current laws to make it as difficult as possible for eastern European Jewish immigrants to enter this country. However, restrictionists were not going to have their way without a struggle. The battle lines had
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been formed.

B. 1910 - 1920

While this decade is best remembered as the one in which World War I was fought, attention is drawn here to the fact that liberal and restrictionist forces within our own nation - including members of Congress, two presidents, and famous people from all walks of life - were engaged in a raging conflict over the issue of the "open door."

On March 11, 1910, spokesmen for the Union of American Hebrew Congregations, the American Jewish Committee and B'nai B'rith appeared jointly before the House Committee on Immigration and Naturalization, standing united in opposition to restrictive legislation. Here was their argument: "We desire to renew the opposition to sundry restrictive bills and amendments now before Congress. We, as American citizens, actuated by a desire to preserve the best traditions of this country as an asylum for the able-bodied citizens of other countries who suffer from oppression and persecution, and sincerely believing that the addition to our population of intelligent, industrious and moral persons, will greatly increase our national productiveness and general prosperity, emphatically oppose amendments to the law which (1) increase the Head Tax, (2) repeal or modify

the bonding provisions, (3) establish a literacy test, (4) prescribe physical examinations for immigrants, such as prescribed for admission into the U.S. Army, (5) establish a monetary requirement, (6) require 'moral certificates' for admission (particularly from Russian refugees), (7) abolish the Information Division, (8) establish as an excluded class persons 'found to be economically undesirable,' (9) require aliens to secure registration certificates under heavy penalties, (10) increase the period to five years (it was then three) within which deportations may be ordered on the ground of 'public charge,' (11) establish a race or color test for admission of aliens, contrary to the fundamental principles of our Government and in violation of treaty rights."²⁷

Among those Jewish leaders who testified before the Congressional committee was Simon Wolf, the Washington representative of the Hebrew Immigration and Aid Society (HIAS). Summarizing his testimony, the American Jewish Year Book reports: "He stated that those (Jews) appearing did so as American citizens, whose sole desire was to contribute to the welfare of the country. He made an earnest plea for the retention of the Bureau of Information, provided for in the last immigration law, and emphasized its value to the immigrants."²⁸

In reply to questions, Wolf argued against the necessity and value of an educational test, and maintained that immigrants were a valuable asset to the country, to whom the application of such a test would be of no use. He considered such a test entirely unAmerican, uncalled for, and diametrically in contrast with the experience with the immigration that had so far come to our country. Wolf thought that immigrants from the regions of the Mediterranean made as good citizens as any others,

and that the way to guard citizenship was not by more immigration laws but by proper naturalization laws which we then had. (NOTE: This testimony serves to help the southern European's cause as much as the eastern European's.) He also opposed any increased head tax, he favored a minimum tax, and he held that the expense incidental to the administration of the immigration service should be borne by the government.

When he testified before the committee, Louis Marshall added a bit of sarcasm when he said: "All this talk about immigrants is, to me, very amusing, when we consider that we are all immigrants - every one of us. Beyond that, there are very few who are in any way, in this community, descendants of the Pilgrims, or of the original settlers of the South, who arrived in the country prior to the Revolution. I understand the Sons and Daughters of the Revolution are not very numerous - although there is one daughter of the Revolution here today, who is of Jewish birth.

"You will find that the great bulk of our population is descended from people who have been on this continent not longer than one century. What is to be gained by all this talk about difficulty with immigrants, when we are all either immigrants ourselves or the sons or grandsons of immigrants?"

Senator Henry Cabot Lodge demanded that a committee consider restrictive immigration measures; to it the champions of liberal legislation presented a letter from Harvard's president, Charles W. Eliot, which said in part: "(1) Our country needs the labor of every honest and healthy immigrant who has the intelligence and enterprise to come hither. (2) Existing legislation is sufficient to exclude undesirable immigrants. (3) Educational tests

should not be applied at the moment of entrance to the United States, but at the moment of naturalization. (4) The proper educational test is the capacity to read in English or in the native tongue, not the Bible or the Constitution of the United States, but newspaper items in some recent English or native newspaper which the candidate could not have seen.

(5) The attitude of Congress and the laws should be hospitable and not repellent. The only questions which are appropriate are, is he healthy,
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strong, and desirous of earning a good living?..."

But, the impact of pleas such as these was blunted most effectively by the Immigration Commission, which had been established in 1907. The commission published its 42-volume report in 1911. As Robert A. Divine puts it: "The significance of the report lies in the fact that though it was labeled an objective and scientific study of the problem, the bias of
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the members was evident in its findings."

The Commission, with one member dissenting, concluded that the restriction of immigration was "demanded by economic, moral and social considerations" and it recommended enactment of a literacy test. The recommendation of the Immigration Commission in favor of the literacy test
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renewed agitation for that measure.

Meanwhile, the Central Conference of American Rabbis continued its rear-guard action; i.e., it called for the rapid acculturation of the immigrant and his progeny: "We recommend that the members of the Conference urge their respective congregations to further the educational, social, industrial and religious well being of the immigrant, and especially to welcome their children in our religious schools."

As a result of the massive exodus from Poland to the United States in 1911, the following point was underscored: "Our present day is witnessing the rise of another great Jewish center (i.e., the United States)."³³

Meanwhile, pressure within the government for restrictive laws mounted. On July 1, 1911, Immigration Commissioner, William Williams, in an annual report to the Commissioner General, "traded immigration from Southern and Eastern Europe, and showed his animus by characterizing the residents (who had emigrated from there to this country) as 'possessing filthy habits and are of an ignorance that passes belief.'"³⁴

During the latter half of the year and in the early months of 1912, three major bills were introduced before Congress endorsing or slightly modifying a law providing for the exclusion of aliens over fourteen years of age who were unable to read and write, those not possessing one hundred dollars in cash, those not having certificates of good moral character, those not passing a physical test equal to that of the U.S. Army, those judged to be "physically, mentally, or morally unfit to be American citizens," and those unable to pay a head tax of \$50.00.

The reader should keep in mind that while the proposed literacy tests, demands for financial resources and for physical and mental well-being would be a hardship on potential immigrants of all religious and racial stock, any measure calling for an immigrant to present a "certificate of character" from his home country would prove to be specially difficult for Jews of Eastern Europe. In fact, this provision would almost automatically cut off Jewish immigration from Russia and Roumania, for it

was well-nigh impossible for Jews to procure such certificates from these bigoted governments.

The major piece of legislation was S. 3175, bearing the name of its author, Senator William P. Dillingham of Vermont, who persistently strove to restrict immigration. During the hearings which followed the bill's introduction, a number of significant statements were made. A few quotations follow. It had been suggested that immigrants should carry identification cards with them at all times. Congressman Adolph J. Sabath of Illinois responded: "I desire to call attention to this fact: I know there are men who seek naturalization papers and become citizens and receive their certificates from the courts, because they want to become citizens of the United States; and I know of hundreds of cases where such papers have been lost by the people who obtained them, and they have great difficulty in securing duplicates. Now, if a paper that is of such great value is lost by these people, why would not they just as well, and more frequently, lose their identification cards?"³⁵ Judge Leon Sanders of New York, speaking for HIAS, joined the Congressman in deriding such an idea.

It was recommended later in the hearings, that with regard to the increase in the head tax the steamship companies bearing the immigrants would absorb this additional cost. Congressman J. Hampton Moore of Pennsylvania and Lucius Beers of the Cunard Lines threw light on the subject thusly: "Mr. Moore - I should like to know whether in your judgment an increase of the head tax would be oppressive upon the immigrants or whether the steamship company would in any way contribute to the increased

expense?' Mr. Beers - 'I do not think that the steamship company would pay a cent of the increased head tax.' Mr. Moore - 'You think not?' Mr. Beers - 'I do not think so.' Mr. Moore - 'The burden would fall directly upon the persons desiring to enter this country?' Mr. Beers -
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 'Upon the the persons desiring to enter'..."

In addition to showing the unfairness of these measures by exposing them to the light of day, harsh statements in opposition to the Dillingham Bill were offered by sundry Jewish spokesmen; e.g., a committee representing the Jewish community of Philadelphia wrote: "...The Jewish Community prefers to base its opposition upon the fundamental principles of our free government and upon the history and traditions of our country. It has been the consistent will and policy of the people of the United States that this land should ever be a refuge for the oppressed and persecuted of the earth.

"It is inconceivable that a free and prosperous people, whose institutions are founded upon the broadest humanity and the most explicit recognition of the rights of man, could wish to close its ports against peaceable, honest, worthy, and industrious men and women seeking for themselves and their children political, religious, and industrial freedom. To turn them back, because of defective education...would be for this Nation stultification and shame..."
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The leadership of the Chicago Jewish community³⁸ and other
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 communities followed suit.

When Rabbi Stephen S. Wise spoke before the committee, he spent much of his time defending Russian nationals who would, under the terms of a proposed amendment by Congressman Root of New York, be returned to

Russia were that country to declare these immigrants "revolutionaries." Here is the way the eloquent Reform spiritual leader pleaded with the committee members: "On the fourth of July, 1876, what happened? Do you know? Gentlemen, the first American flag that was flung to the breeze on that day was suspended from the window of a political prison in Russia... Are you going to say to such as these (those who pieced together the flag): 'You must go back to Russia and become the victim of a Government that is infamous?'...I cannot bring myself for a moment to believe that this committee can accept the Root amendment. I believe that the country should rise up in protest against this amendment, which is gravely violative of every instinct of American freedom..."⁴⁰

But, the Burnett-Dillingham Bill eventually passed in both houses of Congress and President William Howard Taft, like Cleveland before him, vetoed it on February 14, 1913, declaring: "I cannot make up my mind to sign a bill which, in its chief provision, violates a principle that ought in my opinion to be upheld in dealing with our immigration..."⁴¹ The Senate repassed the bill, but the House sustained the President's veto on February 19, 1913.

On June 13, 1913, the Burnett Bill was reintroduced in the House. Within six months, the Bill was through committee and had come to the floor for debate and for a vote. On January 31, 1914, Representative William H. Murray of Oklahoma introduced an amendment advocated by the American Jewish Committee, exempting from the operation of the literacy test "all aliens who shall prove to the satisfaction of the proper immigration officer or to the Secretary of Labor that they are seeking admission

to the United States to avoid religious persecution, whether such persecution be evidenced by overt acts or by discriminatory or oppressive laws or regulations."⁴² The amendment was rejected by a vote of 89-73. On February 4, the Burnett Bill was passed by the House.

The Congress sent an immigration bill to President Woodrow Wilson in 1915 and again in 1917, and the President vetoed both measures. He declared that a literacy test was a test of opportunity and not of character.⁴³ In his view, the ability to read was no measure of a man's innate capacity, which Wilson felt was the only essential requirement for immigrants. But, by 1917, the restrictionist bloc in Congress had greatly increased in size and it was able to pass the literacy test over the President's veto.

So, despite the fact that it had the support of eminent leaders of various facets of American society, the American Jewish community suffered a defeat. Their foes in Congress frankly admitted the purpose of the law was to reduce the number of immigrants. They were certain that the decrease in numbers would be at least 25 per cent.

As Divine states the facts: "A new principle, group selection, was evident in such discrimination directed against the new immigration, and this concept of judging men by their national and racial affiliations rather than by their individual qualifications was to become the basic principle in the immigration legislation of the post World War I period."⁴⁴

C. 1920-1930

It would be well, at this juncture, to pause for a moment and attempt to better understand the forces at play. We have shown that the

doors of the United States were closing to huge hordes of Eastern European immigrants at a time when they sought refuge here. The handwriting was on the wall, and the leaders of American Jewry knew full well what the message meant. For example, the Central Conference of American Rabbis had already warned "of encroachments upon the principle of human liberty as are involved in (legislation proposed) in Congress...The gateway of this land shall not be closed to those men and women who seek the high privilege of American residence and American citizenship."⁴⁵

The Jewish Chautauqua Society, in a debate syllabus, drew the line of argument for and against liberal immigration in this way: (Affirmative) "The United States should admit the immigrant because it is an asylum for the oppressed and persecuted. The policy of the United States, based on this principle, has produced a nation that is progressive and resourceful. Nations that do not receive "new blood" tend to deteriorate. The United States, with its blend of races, develops a nation equal to meet any emergency, adapting itself to new conditions and carrying out policies that make for economic and social progress.

"The United States should continue its time-honored policy. The claim has been made at various periods that particular nationalities are undesirable. The claim has no more justification now, in regard to the Jew, than it had at some other time in reference to the Germans or the Irish. The Jewish immigrant is a desirable addition, because he readily adapts himself to conditions here. He desires to raise the standard of living. He develops industries, particularly the needle industries; e.g., clothing, cloaks, etc. He goes into skilled occupations. He tends to

diversity in occupations. The younger generation enters various professions and businesses. There is a constant upward economic tendency on the part of the Jewish immigrant. Years of experience have made him a capable business man. All this makes him economically valuable.

"He is intellectual and appreciative of education. He sends his children to school and college. He and his children use the public libraries. He is a valuable factor in the population in behalf of the spread of education, thought and intellectual advance.

"He shows a low death rate and a high life rate, thus indicating vitality and ability to resist disease, as well as discomforts of city life. He has high moral ideals. He has a strong sense of justice. His family life shows devotion and affection. He is temperate, thrifty and his qualities of character tend to make a wholesome, moral nation. He is law abiding, possess a sense of good citizenship and devotion to country. His children rapidly learn the civic ideals of the country.

(Negative) "The United States has to protect itself against immigrants which it regards as undesirable. It may properly pass laws which will reduce the number of incoming aliens. If there is an economic demand for immigrants, it is for the muscular laborers who do manual work on railroads, in mines, and on farms. The Jewish immigrant does not fill this want because he is not strong physically and not adapted to work of this character. Entering the field of unskilled labor, his competition tends to lower the standard of living.

"His tendency is to form colonies, rather than mingle and assimilate with the population. He crowds into large cities, adding to the congestion, and the consequent disease and morality, as well as the discom-

ports of congested quarters. His crowding in rooms tends to bad moral conditions.

"The second generation deteriorates morally and physically, as is shown by statistics of crime. With the increase of defective, dependent, and criminal aliens - Jewish and other - the authorities, as well as private societies, are compelled to assume responsibilities too great for them to bear, with the result that the nation must suffer social and moral deterioration. The United States is unable to assimilate the large number of immigrants coming here."⁴⁶

So, here we have the classic arguments. Their implementation in fact explains what was occurring in the United States in and around the 1920's - the negative side had the upper hand.

And, as we indicated earlier, this anti-immigrant (anti-Semitic) prejudice made itself known not only in Congress but among immigration authorities, as well. Max Kohler spoke out on this aspect thusly: "We are now told that the (immigration) inspectors are to decide, not merely whether the alien himself is likely to become a public charge here, but whether his family in Russia, whom he has left abroad until he has been enabled to establish a home for them here, is; whether they, or any of them, are for any reason or on any doctrine of probability, likely to be excludable if they should, in the future, come over here. All of these matters are to be considered at the time when the head of the family himself comes over here, and often by ignorant, coerced inspectors, unfamiliar with conditions abroad, incapable of questioning intelligently as to such difficult matters, which are wholly beyond their ken."⁴⁷

This was being done, moreover, on the theory of avoiding hardship attending the separation of families. Instead of continuing the time-honored method, which had worked well in hundreds of thousands of cases among Russian Jewish immigrants and others, of permitting the male head of the family to find employment and build a home here, and save enough to send for his family, he was now likely to be excluded on entry because of uncertainties on these points. The alternative was for the immigrant to bring his family with him at once, in which the chances of his becoming a public charge were enormously increased. It was probable that the whole family would be properly excluded on that ground, or so handicapped after arrival that they would, in fact, become public charges or charges on private charity.

Kohler concluded: "However good and humane the purpose may be, which underlies this new principle, it is bound, in practice, to create hardship and injustice."

Inspectors were not the only administrative officials whom Kohler suspected. He also lashed out at immigration physicians: "The medical examinations have become more rigid, including, for instance, such items as the alleged 'three pound underweight,' and, under prevailing demoralization, Boards of Special Inquiry are actually coerced into applying these certificates to vocations of immigrants and their families, upon which they have absolutely no bearing, as indicating 'likelihood to become public charges,' they physicians not having had the evidence before them of the immigrants' occupations. This works particular hardship upon the Russian Jew, with his deceptive appearance of slight physique,

particularly at the end of abnormal conditions attending living in the badly conducted steerage, after being deprived of appropriate food, because of observance of the Jewish dietary laws." ⁴⁸

What did these administrative practices of exclusion mean? Kohler continued: "Earlier during Mr. Williams' regime (as the head of the Ellis Island operation), before the courts and public opinion somewhat restrained him, the percentage of exclusions was even greater, having been over 23 out of every 1,000 for the fiscal year 1910, and in the same months, even for Jewish immigrants, as many as 32 out of every 1,000, while prior to 1909 it was commonly less than one per cent. As regards the Russian Jewish immigrant, exclusion does not mean merely economic ruin - because the immigrants almost invariably burn their bridges behind them - but imprisonment or death, if discovered by Russia, for emigration from that inferno is commonly a crime." ⁴⁹

Kohler was convinced that "Jews do not fare worse than immigrants of other races, but all are apt to become victims of unjust administration of the law, with the consequences of deportation aggravated a thousand fold for the poor Russian and Roumanian Jews, because of their inhuman treatment in those benighted countries." ⁵⁰

He summarized: "As regards the Jewish immigrant, we are fortunate in having received high encomiums as to their desirability and useful, adaptable character from Presidents Wilson, Taft, Cleveland, Roosevelt, etc. With race-lines drawn, however, very likely immigrant inspectors would be found to discriminate against the Hebrew immigrant, in view of reckless, ill-considered arguments as to race values emanating from certain of their immediate superiors, administrative officials who have

no right to publicly air their narrow views at all, in view of their official position. Incidentally, such devices would also probably reduce immigration from the very races which such doctrinaires claim are most desirable."⁵¹

Now let us see what happened in the 1920's. On May 29, 1921, President Warren G. Harding signed the first bill in American history explicitly restricting European immigration. Of the 355,000 immigrants allowed to enter from Europe, 55 per cent were to be from the northwest and 45 per cent from the southeast. In the heat of nationāism, pleas by Jewish spokesman "were drowned out by the general cry for restriction. The silence of business interests was a great loss to the anti-restriction-ists, and, except for a few dissenting voices from the northeastern states,⁵² the legislation went unopposed in Congress."

The 1921 law did not settle the immigration problem but rather marked the beginning of a prolonged and often bitter struggle that raged until Congress enacted a permanent law in 1924. Here is the way the matter was reported in the American Jewish Year Book: "The movement for the restricting of immigration of the previous years continued with great vigor in the United States. Late in 1923, Congressman Johnson in the House and Senator Lodge in the Senate introduced bills, the chief feature of which was the restriction of immigration to 2 per cent of the number of foreign-born persons of any nationality resident in the United States according to the census of 1890. The bill was opposed by many groups of the American people, especially the provision for the 1890 census. A Jewish delegation, headed by Mr. Louis Marshall, appeared before the

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Immigration Committee on January 3, 1924, and charged that the bill was
discriminatory and un-American."⁵³

Similar action was taken by the National Catholic Welfare Council. Later, 20 of the 22 Democrats in the New York State delegation to the House of Representatives issued a joint declaration opposing the Johnson Bill, declaring that the 1890 basis for the quota "was deliberately selected to favor the so-called Nordic races and discriminate against races from Southern and Eastern Europe."

On February 21, 1924, Secretary (of State) Hughes wrote the Chairman of the Senate Immigration Committee that he hoped that a "quota basis will be found that will not involve any discrimination of which just complaint can be made."

Late in February, the Senate Committee on Immigration voted to take the census of 1910 as a basis for the quota and it was in this form that the bill came before the Senate. On the floor, however, the 1890 census was substituted as the House of Representatives had previously voted.

Of interest, with regard to Secretary Hughes' comments, is the fact that a State Department spokesman, appearing before the same committee, said: "Our restrictions on immigration should be so rigid that it would be impossible for Armenians, Jews, Persians, and Russians, all of which have been so driven hither and thither since 1914 that they cannot be considered as desirable people. For any country, to enter the United States."

In its final draft, the Act of 1924 established a yearly quota

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totaling 150,000 for European countries based on the number of foreign born of each nationality residing in the United States in 1890. The pleas for fairness failed. This system was replaced in 1927, however, by the national origins plan under which quotas were to be computed on the basis of the 1920 census - excluded classes and the literacy test remained fixed in law, but administrative procedures were improved; i.e., American consuls in Europe were put in charge of examining immigrants.

Because of the stipulations of the Act of 1924, there was a reduction of 87 per cent for southern and eastern European nationals but only 29 per cent for those coming from northern and western Europe. Wischnitzer tells us: "Poland, Russia and Roumania where Jewish emmigration was an urgency, were particularly affected. The Polish quota dropped from 30,977 to 5,982; the Russian, from 24,405 to 2,148; and the Roumanian, from 7,419 to 603."⁵⁴

Donald Taft, author of Human Migration (1936) attributed the adoption of the new law to three factors: "Postwar anti-alien feeling; organized labor's fear that immigrants threatened its standard of living; and racial bias."

When the new law went into effect on July 1, 1924, it left thousands of emigrants, who were already in possession of visas and steamship tickets, stranded at various ports in Europe. About 8,000 Jewish emigrants from Russia were faced with the despairing news that the Russian quota for 1923-24 had already been filled. Louis Marshall, Stephen S. Wise and John L. Bernstein (of HIAS) made representations in Washington on their behalf, but to no avail.

As for the emigrants, return to Russia was out of the question.

They set their hopes on the 1924-25 quota. But with the drastic cut in the Russian quota, fixed by the Act of 1924, this hope was tenuous. Meanwhile, emigrants from Poland and Roumania continued to pour into ports of embarkation, only to discover that their chances of being admitted to the United States were extremely doubtful.

Taking stock of the new law, it was speculated: "According to the provisions of the new immigration bill, probably no more than 10,000 Jews will be admitted to the country annually. (During several years preceding World War I, the Jewish immigration annually passed the 100,000 mark.)"⁵⁵

The New York Times of January 9, 1924, put its finger on an aspect of the immigration legislative battle alluded to earlier; i.e., a power struggle between the Congress and the White House, with the immigration bill serving merely as a pawn. The newspaper stated: "The House committee report that accompanied February's bill expressly insists on avoiding absolutely all treaty regulation of immigration, and upon violating all our treaties with foreign countries, so that Congress, and not the treaty-making powers, shall control these delicate matters.

"The report frankly adopts the views of Representative Box of the committee, as follows: 'The President's constant contact with delicate and difficult questions of our foreign relations, and the necessity of maintaining cordial diplomatic relations with foreign countries, expose him and his advisers and agencies to the constant tendency toward too great liberality in immigration regulations. The President can make such a treaty with the approval of two-thirds of one branch of Congress.'⁵⁶"

When it is remembered that Senator Henry Cabot Lodge carried on the fight for restrictive legislation from the outset, and when it is

recalled that he was a foe of the Executive Branch - any Administration - this theory becomes all the more meaningful.

No matter what the underlying motivation was, the deed was done and, as a result of the new law, Jewish immigration was one-fifth of the magnitude of that of the previous year, namely 48,000, and less one-tenth of the number of Jews who entered during 1914 just before the war, 113,000.

In his message to Congress upon the State of the Union in December, 1925, President Calvin Coolidge declared, relative to the operation of the immigration act, that the situation should...⁵⁷ be carefully surveyed in order to ascertain whether it is working a needless hardship upon our own inhabitants. If it deprives them of the comfort and society of those bound to them by close family ties, such modifications should be adopted so as to afford relief, always in accordance with the principle that our Government owes its first duty to the people of our nation and that no alien, inhabitant of another country, has any legal rights whatever under our constitution and laws...But we should not, however, be forgetful of the obligations of a common humanity. The standard which we apply to our inhabitants is that of manhood, not place of birth."

Later in the year numerous bills were introduced in the House and Senate providing for amendments to the immigration law of 1924, for the purpose of facilitating the union of families, some of whose members were in the United States and others still abroad, but none of these bills were acted upon by Congress.⁵⁸

The stalemate continued. However, the Administration seemed to have the final word, because the provision in the Immigration Law of 1924 providing for the reapportionment of quotas according to national origins of the population of the United States as of the census of 1920, which was

to begin with July 1, 1927, was not carried through.

It was postponed until April 1, 1928, since the Secretaries of State, Commerce and Labor reported to the President that in their opinion "the statistical and historical information available raises grave doubts as to the whole value of these computations as a basis for the purpose intended."⁵⁹

D. 1930 - 1940

The monstrous depression that struck at the heart of the world's economy in the late 1920's and left its mark throughout most of the 1930's, severely affected immigration in the United States. Those who feared for the very existence of their nation looked about for a "straw man" to attack when overcome with anxiety. They clothed themselves in the garb of racism and nativism - they attempted to reduce the number of newcomers to the barest minimum.

For the first time, the White House assumed a restrictionist posture. On September 8, 1930, at a time when the financial crisis was assuming its most severe form, President Herbert Hoover sent instructions to consuls issuing immigration visas tending to restrict the number of immigrants. He ordered the consuls to "interpret, in a strict sense, the provisions of the immigration laws, particularly those requiring that the immigrant must not become a public charge..."⁶⁰

These regulations were still being harshly enforced in 1933. On September 7 of that year, a petition was submitted to President Franklin D. Roosevelt by the American Civil Liberties Union, signed by the officers of the A.C.L.U. and thirty-four distinguished leaders of American opinion, including such men as Charles Beard, Felix Frankfurter, Dr. Alvin Johnson,

Reinhold Niebuhr and Rev. Percy G. Kammerer. The petition described the plight of German refugees and urged the new President to instruct American consuls that a liberal policy be applied so as many refugees as possible would be admitted within the limits of the quota.

In particular, the petitioners proposed that the order issued by President Hoover on September 8, 1930, be relaxed in all cases where refugees were concerned and visas be granted to them if it appeared probable that they would not become public charges. The petition also suggested that American consuls be reminded that no police certificates need be demanded from refugees; and that their attention be called to the historic tradition that religious and political refugees could always claim asylum in the United States.

In response to such pleas, Secretary of State Cordell Hull instructed the consuls to be lenient toward applicants for visas, whose lack of 'dossiers' and similar documents would otherwise prevent their immigration, and, to forego this requirement, especially in cases where the applicant stood in some personal danger.

However, in the first five years of the Nazi regime, the number of immigrants admitted from Germany never reached the full German quota. In part, this was because Jews there still hoped to find some way of adjusting themselves in Germany, or at least of arranging their emigration in a gradual and orderly fashion. As a result, up to June, 1939, only 73,322 immigrants came into the United States under the German quota, although 183,112 immigrants might have been legally admitted.

Now, let us look more closely at what occurred during the 30's.

Sentiment in sympathy for the refugees' plight was far from universal.

Typical of the contemporary anti-semitic slurs was a comment that appeared in "Outlook Magazine" on November 25, 1925: "It is funny, when you come to think of it, to talk about 'persecution' and 'bigotry' as applied to Jews... Where in the world are they so well off?...The Jews are without a country by choice." The author went on to complain that Jews mass together and exclude Christians!

Such was the fuel that the restrictivists used; they never relaxed their pressure. Although the influx of aliens into the United States during the year 1930-31 gave indications of being the lowest in one hundred years, the persuasiveness with which they harangued the United States Congress for restrictive legislation was considerable. The campaign was conducted principally by patriotic societies and labor organizations. ⁶¹

These groups were encouraged by the attitude of President Hoover, who, in his annual message to the Congress, in December 1931, recommended that the reduction, by administrative measures, of the number of immigration visas issued, be made permanent by statute. The President also recommended the registration of aliens and the strengthening of deportation laws.

As a result, a large number of restrictive measures were introduced in the Congress. But, owing principally to the preoccupation of that body with more urgent economic measures, none of these reached the voting stage. In March 1932, Jewish organizations were represented at hearings before the Committee on Immigration in the House of Representatives in opposition to these measures.

The debate over the reduction bill in 1931 marks the high point of the restrictionist tide in the 1930's. Though they pressed vigorously

for various bills to suspend or radically limit immigration throughout the decade, they never were able to gain consideration for their measure on the floor of the Congress.

One reason for this failure was the effective operation of the "public charge" policy in keeping immigration at a minimum. Even more important was a change in the chairmanship of the House Immigration Committee. In the Congressional elections of 1930, the Democrats won a narrow majority which enabled them to organize the House when Congress convened in December of 1931. As a result, Samuel Dickstein, an ardent anti-restrictionist, replaced Albert Johnson in the vital role of chairman of the House Immigration Committee. Holding this post throughout the 1930's, Dickstein was able to thwart all efforts of the restrictionists to enact legislation regulating the reduction in the quotas. Moreover, "after 1933 Dickstein received considerable support for his views from leaders of the Roosevelt administration, particularly from Secretary of Labor Frances Perkins."⁶²

Regarding the hearings before the House committee, referred to above, representatives of social service organizations, mainly Jewish groups, argued that the proposed restrictive legislation requested by President Hoover would bring about a policy of virtual exclusion. They received unexpected support when a State Department official asserted that the administrative regulations were working so well that there was "no urgent need for legislation."⁶³

Rabbi Stephen Wise delivered the most eloquent plea against the administration's measure, known as the Moore Bill. "I say to you," he told the committee, "that you will introduce a system of absolute

exclusion, and, once you get exclusion upon the statute books of America, you will set up a new precedent, you will introduce a new method of life into America, and it will be out of keeping with the things we cherish as American ideals."

The House Immigration Committee submitted a favorable report on the measure in April, but Chairman Dickstein opposed it and he succeeded in preventing it from reaching the floor of the Congress.

With the election of Franklin D. Roosevelt, and the beginning of the New Deal, agitation for immigration restriction subsided for a brief interval. In 1934, however, the restrictionist block once again began agitating for a legislative reduction in quotas. Martin Dies of Texas became the spokesman for this resurgence of the restrictive movement, concentrating on economic arguments; e.g., "If we had refused admission to the 16,500,000 foreign born who are living in this country today, we would have no unemployment problem to distress and harass us."

Dies introduced legislation in 1934 and 1935 to reduce the quotas by 60 per cent. He announced: "Necessity compels us to adopt and develop a strong nationalistic spirit and policy. We must ignore the tears of sobbing sentimentalists and internationalists, and we must permanently close, lock and bar the gates of our country to new immigration waves, and then throw the keys away."

In 1934, as conditions worsened in Europe, the American Civil Liberties Union presented a memorial to President Roosevelt, signed by leading American professional men, asking the President to lighten immigration restrictions in order to facilitate the admission of religious and political refugees from Germany. ⁶⁴ Meanwhile, as Dickstein blocked

Dies' thrusts, the House Committee on Immigration refused to report out of committee eight bills designed to further restrict immigration into the United States.

The President attempted to alter events by ordering American consuls abroad to treat refugees applying for visas with special consideration. Furthermore, the State Department told the consuls to give refugees "the most humane and favorable treatment possible under the law."⁶⁵

Jewish groups had doubts as to the effectiveness of these administration directives. Among the skeptical critics was Governor Herbert Lehman of New York, who sent the White House a message protesting against unfair treatment by American consuls toward Jewish refugees. The President, in his reply, expressed his sympathy for the plight of the persecuted Jews and reiterated his directive to the consuls.

In 1938, as the Third Reich intensified its villification against German Jews, President Roosevelt, on November 18, announced that, in the case of political refugees, temporary visas would be renewed every six months as long as the persecution of Jews continued, thereby aiding some 15,000 individuals who had entered the United States as visitors. The State Department, earlier that year, called for a European-Western Hemisphere conference to solve the refugee problem.

Congress was not to remain quiet on this issue. The debate over refugees reached a climax in the spring of 1939 when Immigration Committees of both houses considered legislation dealing with refugee children. Senator Wagner of New York had introduced a bill which proposed to admit 20,000 German refugee children into the United States over a two-year period as non-quota immigrants.

Divine summarizes what occurred: "The people advocating the Wagner bill presented a powerful case, which showed that they possessed a realistic understanding of the difficulty in passing a bill liberalizing immigration policy. The most interested supporters formed the Non-Sectarian Committee for German Refugee Children, composed of religious and social leaders of all faiths...First, they won over organized labor; secondly, they presented many southern witnesses; finally, they sought wider popular support by having such celebrities as Helen Hayes and Joe E. Brown appear at the hearings to speak for the bill." 66

In developing their case, the advocates of the Wagner bill were careful to play down the Jewish question; Rabbi Stephen Wise was the sole Jewish witness to appear at the hearings. In describing the need for legislation, they continually stressed the fact that the refugees represented every religious creed, asserting that Jews made up only 60 per cent of the total involved.

The plea for tolerance was not wholly successful, for the opponents of the bill, on several occasions, expressed anti-Semitic viewpoints; e.g., "additional immigration permitted by (the Wagner bill) would be for the most part of the Jewish race...That the Jewish people will profit most by this legislation goes without saying."

The Senate Immigration Committee, bending to the will of the restrictionists bloc, agreed to send the measure to the floor of the Senate with the proviso that the 20,000 children had to enter the United States as quota immigrants. It was stated: "The Committee feels that existing quotas should be permitted to stand and would not sanction a breakdown of the existing restrictions." Senator Wagner refused to accept

the amendment, on humanitarian grounds, so the bill died in committee.

The entry of the United States into the World War in December, 1941, marked the end of the prewar refugee problem. The American record in dealing with this human catastrophe is curiously mixed. In Congress, where the restrictionists bloc was powerful, all efforts to liberalize immigration laws in behalf of refugees failed. But the Roosevelt administration displayed a keen desire to help the refugees in every way possible under law, and, as a result, administrative policy toward refugees enabled the United States to absorb more refugees than any other nation. Considering that throughout most of this period the United States was engulfed in the worst depression in its history, the relief given to refugees was a major humanitarian achievement.

And there were some signals on the horizon that the grip with which the restrictionists restrained Congress was weakening and that a more liberal legislative attitude could be anticipated.

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E. 1940 - 1950

In an article which measured public opinion on immigration, Henry Pratt Fairchild wrote: "The rise of Fascism and Nazism in Europe introduced a new element into the picture (of America's attitude toward immigration and immigrants). Once more, the old appeal to the heart became effective. Once again, the American people felt the urge to relieve the sufferings of the victims of political, racial, and religious persecution.

"But, here again, a sharp conflict arose. This new appeal manifested itself at a moment when the United States was in the grip of an extreme economic depression, and, because of the vast unemployment and

actual destitution in this country, governmental agencies had tightened up on the administration of the inspection of immigrants and the granting of visas. The difficulty was accentuated by the fact that any relaxation of the quota regulations would result in the admission of a disproportionate number of one or two cultural groups. The net result was the admission of two or three hundred thousand aliens on a refugee status, but no significant change in the basic law or its interpretation."⁶⁸

We use this quotation for a number of reasons: (1) It indicates what happened; i.e., refugees were permitted to escape to America, despite the fact that restrictionists made it clear that such exceptions were not to lead to a lowering of barriers once hostilities were ended; (2) Social scientists, looking at the situation "objectively," were concerned about the overwhelming numbers of one or two groups of nationals coming here (it was that kind of "objective, scientific" thinking that led to the vindictive Immigration Commission Report of 1911, which in turn gave the restrictionist bloc so much ammunition; (3) There was still a need for a complete overhaul of our immigration laws once World War II ended; and (4) The wall separating restrictionists and liberals remained solidly in place.

Fairchild's comments point this up: Following World War II, the usual anti-alien outcry became involved in, and was more or less overshadowed by, a more general attack on all individuals and groups whose political or economic views deviated from what was considered the standard and accepted American pattern by those who were in a position to impose their own criteria.

In particular, there was a move to deport as many aliens as possible,

whose beliefs could be alleged to verge on the Communist ideal. Fairchild commented: "At the moment of writing (1949), this horrendous phenomenon has not yet had time to work itself out to its final culmination, and we can only wait and see what its ultimate effect on immigration sentiment may be. (Our next sub-section shows what occurred.)"

"In the meantime, the problem of aiding the displaced persons in Europe has taken the spotlight as a specialized facet of the whole immigration matter. The arguments pro and con are of a unique and temporary character, and do not belong in a general discussion, although the ancient craving for population increments has not been lacking."

With one important exception - the repeal of the Chinese Exclusion Act - there was no legislative action on the immigration problem during World War II.

As has been stated above, war refugees were the center of attention, and they were considered in a different light than were immigrants per se. Here is the way the administration's attitude was reported to the Jewish community: "...President Franklin D. Roosevelt said, in an address on October 17, 1939, delivered at the White House to members of the Intergovernmental Committee on Political Refugees, who met in Washington at his invitation six weeks after the beginning of the war, that there was a double refugee problem facing the world. The first he designated a short-term problem involving an estimated 300,000 political refugees from Germany, not permanently settled in other countries, and the second, a vaster problem embracing the fate of many millions of people who would be uprooted by war." ⁶⁹ The President called for the resettlement of the former group

"during the actual course of the war without confusing their lot with the lot of those who in increasing numbers will suffer as a result of the war itself."

President Roosevelt predicted that the war would create ten to twenty million new refugees of "many races and many religions" who would be "compelled to start life anew in other lands." One note of interest is that neither of the other two major powers, Great Britain and France, joined the President in seeking a solution to the massive refugee problem that he was sure would come with the end of hostilities. Rather, they insisted that one of the objectives of their war against Germany was to eliminate the doctrine of racial and religious bigotry, and that victory for the Allies would eliminate the need for any large emigration program. History has shown that Mr. Roosevelt's estimates were prophetic and that our war partners were mistaken.

The Intergovernmental Committee organized by the President, stirred the feelings of the Jewish community in America. For instance, the Central Conference of American Rabbis exclaimed: "We share our leadership's gratitude to President Franklin D. Roosevelt for the establishment of the intergovernmental committee to facilitate immigration." ⁷⁰ The Reform Rabbis, not wanting the restrictionists to keep the upper hand, kept a watchful eye on administrative practices and urged that a liberal policy be adopted: "Immigration today is not a problem. In recent years, the net immigration has amounted to only 50,000 per year. But, unfortunately, the administration of these immigration laws, even more than the laws themselves, has excluded many who have a rightful claim to the hospitality of America as a haven of refuge. We urge the Department of State to admit as many as possible of the refugees of Hitlerism..." ⁷¹

President Roosevelt had made a dramatic move to illustrate the plight of Europe's millions of homeless: In August of 1944, at the order of the late President before his death in April, 1,000 refugees came to America as a token of homeless millions who were wandering about the con-

continent. They came outside the immigration laws and, according to Attorney General Francis Biddle: "They have never been in the United States."⁷²

Despite this legal fiction, their arrival here was the end-result of continuous efforts by many groups of humane Americans who felt that these persecuted people should have the traditional American right of sanctuary. "For months, pressure had been brought to bear on the Administration and on Congress to set an example for other nations to follow. It had been suggested that a system of 'free ports' be established to which refugees should be brought, outside the immigration laws, so that they might remain here until the war was over."⁷³

No sooner had President Roosevelt announced his plan for accepting a limited number of refugees as a token gesture than the isolationists and reactionaries inveighed against what they called the forerunner of a flood of refugees headed this way. Nevertheless, 1,000 Protestant, Catholic and Jewish refugees arrived, and among the agencies who rushed to their assistance were the Agudas Israel of America, the Union of Orthodox Rabbis, the B'nai B'rith, HIAS, the Jewish Welfare Board, the National Council of Jewish Women, the National Refugee Service, ORT, and the Synagogue Council of America, plus several Jewish communities in and around Oswego, New York, where the newcomers were received.

In an attempt to solidify national opinion favorable to the acceptance of war refugees and displaced persons, who would want asylum when the war ended, a study of immigration was made under the auspices of several American Jewish organizations. Directing the study was Dr. Maurice Davie, who concluded his summary by writing: "That the United States will remain true

to its traditions despite the sentiment in some quarters to prohibit or severely reduce further immigration is promised by the action taken by President Harry S. Truman on December 22, 1945, in ordering that displaced persons and refugees in Europe be admitted to this country up to the limit permitted by our immigration laws."

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Said the President: "I consider that common decency and the fundamental comradeship of all human beings require us to do what lies within our power to do, to see that our established immigration quotas are used in order to reduce human suffering. I am taking the necessary steps to see that this is done as quickly as possible...I feel that it is essential that we do this ourselves to show our good faith in requesting other nations to open their doors for this purpose."

And, thus it was that President Roosevelt's successor carried on the liberal policy, regarding refugees and displaced persons, which had been enunciated at the beginning of the decade.

President Truman's directive accelerated the restoration of machinery for admitting refugees to the United States. It also served as the basis for the following published view: "For American Jewry, the Truman directive has had a special significance. It crystallized for the first time, in an official public statement of government policy, the relationship between the government and privately-supported programs which, from the beginning of refugee immigration, have assumed responsibility for promoting the adjustment of refugees as new Americans and for preventing those in need from becoming public charges."

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The President had acknowledged the fact that "responsible welfare agencies," which had undertaken the adjustment of refugees in the past, would have to assume similar duties with regard to the prospective new immigrants.

Meanwhile, in 1945-46, legislative activity concerned with immigration was marked by an abortive attempt on the part of a number of conservative Congressmen, supported by spokesmen from the American Legion and Veterans of Foreign Wars, to cut immigration quotas by 50 per cent for the next ten years.

By a slim margin of 10 to 7, the House Immigration Committee in May, 1946, eliminated the controversial Section 5, containing this reduction which had been proposed in the so-called Gossett Bill, named after its sponsor, Congressman Ed Gossett of Texas. "Jewish groups voiced their opposition jointly through Judge Nathan D. Perlman, who testified in behalf of the National Community Relations Advisory Council, which includes all major Jewish groups in the country."⁷⁶

The battle lines formed when the President, in October of 1946, told reporters that he would ask Congress to admit displaced persons outside the regular quotas.⁷⁷ By the end of the year, those favoring liberal legislation organized a Citizens Committee on Displaced Persons headed by Earl Harrison, a former commissioner of immigration. This special lobbying group won substantial financial support from Jewish contributors. Congressman William Stratton of Illinois, on April 1, 1947, offered the Citizens Committee's bill, calling for the admission of 100,000 displaced persons as non-quota immigrants for the next four years.

At hearings before the House Committee on the Judiciary, a great majority of the witnesses - representing the Administration, the three major religious groups, and organized labor - urged that the Stratton bill be enacted.

In rebuttal, the American Legion and the so-called American Coalition

set forth vigorous opposition to the proposed displaced persons program. They were greatly out-numbered by supporters of the plan, but the restrictionists made their points by denying that America had an obligation to accept Europeans. A spokesman for the VFW said: "The displaced persons, delivered from bondage at the cost of American youth, now seek to avoid their share in the responsibility for creating a new freedom and civilization in Europe." An American Legion official claimed: "Displaced veterans, displaced Americans have first claim upon America's conscience." And, John Trevor, speaking for the American Coalition, warned: "The Stratton bill is the spearhead of a drive by the foreign blocs to ultimately abolish the national-origins quota system...up-setting the ethnic balance established in 1924...which would accentuate and gravely embitter international racial dissension and thereby constitute an ever-growing menace to national unity."

So, this debate was no different from those which had preceded it; i.e., the polarity of philosophies between restrictionists and those favoring liberal immigration laws remained rigid.

There was no Congressional action in 1947, despite the President's call for haste. As a delaying tactic, the restrictionist bloc in the Senate forced through a bill calling for a complete investigation of the immigration problem, to be reported out of committee no later than January of 1948. By March of 1948, the American Legion had reversed its stand and now favored the admission of a limited number of displaced persons. The House Foreign Affairs Committee was seeking favorable legislative action, and a host of citizens committees was clamoring for the Senate to get off of dead of center.

A Senate sub-committee rendered a report, drastically cutting down on the number of people who would be admitted under the provisions of the

Stratton bill. Also in question was the manner in which displaced persons would be accepted for admission - the restrictionists held that those in refugee camps should be accepted before taking in the homeless who were wandering aimlessly about Eastern Europe.

Well aware that this would obviously exclude many Jewish refugees, Senator Revercomb - the restrictionists' current spokesman - denied that "there is any distinction, certainly no discrimination, intended between people because of their religion or race." Senator Pepper of Florida responded: "I say that if not by design at least by effect, the bill discriminates against the Jews."

The debate raged on in the Senate, where discriminatory amendments were tacked on to the measure - such as an early terminal date; i.e., for someone to be declared eligible via his status as a homeless person would be December of 1945, thereby excluding Jews who had to flee from their homes in 1946 because of Communist bigotry. The argument continued in the House, and throughout the deliberation of the Congressional Conference Committee.

The President was reluctant to sign the final measure put before him because, as he proclaimed: "In its present form, this bill is flagrantly discriminatory." The 1945 terminal date "discriminates in callous fashion against displaced persons of the Jewish faith." Mr. Truman surmised that the date could have been chosen only "upon the abhorrent ground of intolerance." As he signed the measure, he called for speedy amendment, saying: "I have signed this bill, in spite of its many defects, in order not to delay further the beginning of a resettlement program and in the expectation that the necessary remedial action will follow when the Congress reconvenes."

That was on July 21, 1948. It wasn't until 1950 that the supporters of a liberal program finally achieved their objective - until then, it was one delay after another. In the interim, spokesmen for Jewish groups unanimously criticized the 1948 bill and made known their recommendations for amendments in no uncertain terms.

Congressman Gossett replied: "To say that we are further bound to open our country to this great additional number of DP's is to insult our patriotism, our intelligence, and our Christianity...That we have a moral responsibility for the DP's is a joke. Our moral responsibility is to retain the strength and security of this country." Nevertheless, the House supported a liberal measure sponsored by Congressman Emanuel Celler, calling for the admission of 300,000 more persons.

But, in the Senate, delaying tactics were utilized by Senator Pat McCarran, "an ardent nationalist who viewed immigrants primarily as a source of danger to American society."⁷⁸ As the Chairman of the Judiciary Committee, he was in a position to block action. McCarran warned: "The floodgates of the nation are being pried open for the entrance of millions of aliens, from the turbulent populations of the entire world, who are seeking admission into the United States under the guise of displaced persons." He published his views in a pamphlet entitled "Displaced Persons: Facts versus Fiction."

Seeing that delaying tactics would fail ultimately, the Nevada Senator tried to emasculate the House-passed Celler bill, inserting most of the restrictions found in the 1948 law. When the measure finally reached the floor of the Senate, West Virginia's Kilgore offered a host of amendments which would restore the Celler bill to its original form. He was upheld

by a vote of 58 to 15 and on June 2, 1950, the act was placed before President Truman for signing.

One final note on the matter of displaced persons: On March 24, 1952, the President urged Congress to permit 300,000 people from western Europe to enter extra-quota. There was no legislative action on his request, but President Dwight D. Eisenhower renewed the proposal when he entered the White House and it was enacted in 1953.

But Senator McCarran had not been rendered harmless.

F. 1950 - 1960

There has been a great deal of speculation concerning Senator McCarran's attitudes toward minorities, especially toward Jews. Some have insisted that he was an overt anti-Semite; others believed that his overriding concern for nationalism clouded his view of anyone outside the pale of the majority. A student of our immigration history points out: "There arises the question of the role of religious prejudice in the formulation of immigration policy. The national origins system tended to favor immigration from predominantly Protestant countries and to limit the influx from areas with large Jewish and Catholic populations. Reluctance of congressmen to manifest religious bias in public makes it difficult to generalize on this question. Anti-Semitism may be guessed but cannot be proved as a factor furthering the national origins system. It may be that the outspoken Jewish criticism of the McCarran bill reinforced this bias." 80

The point is that this thesis shows clearly that there was an anti-Jewish, anti-foreign, anti-minority sentiment which was a major part of the undercurrent of public affairs, coming to the surface in the halls of

Congress on many occasions. Senator McCarran, commenting on his bill of 1952, said: "It does not contain one iota of racial or racial or religious discrimination." Yet, one of his close allies in pushing the measure through the Senate, David A. Reed of Pennsylvania exclaimed: "I think that most of us are reconciled to the idea of discrimination. I think the American people want to discriminate, and I don't think that discrimination in and of itself is unfair...We have got to discriminate."

Now, what was the issue at hand? In 1952, after extensive hearings, Congress adopted a new immigration law, sponsored by Senator McCarran and Congressman Francis Walter of Pennsylvania. It passed over the veto of President Truman. It codified, rather than revised, the existing immigration and nationality statutes. While it did introduce a very small increase in the combined ceiling for all quota immigrants, partly by granting token quotas of 100 to previously ineligible countries, in effect, it reaffirmed the principles of the 1924 Act. Thus, though it substituted for the "barred zone" an "Asia-Pacific triangle" concept and gave token quotas to all independent countries within this vast region, it left the national-origins system unchanged.

The Act introduced into law a crudely racist "one-half ancestry" rule; i.e., that persons of mixed Asian and non-Asian parentage, wherever born - even in the Western Hemisphere or in Europe - were to be admitted only on the quotas of the countries of their Asian parents. It also applied discriminatory rules to Caribbean countries with predominantly Negro populations by limiting to 100 the sub-quotas of colonial territories within the Western Hemisphere. Moreover, when certain of these territories became independent states, such as Trinidad-Tobago and Jamaica, they were

not given the same quota-free-status as other autonomous nations in the Western Hemisphere.

In his veto message, President Truman said: "The greatest vice of the present quota system is that it discriminates deliberately and intentionally against many of the peoples of the world. It is incredible to me that, in the year 1952, we should again be enacting into law such a slur on the patriotism, the capacity, and the decency of a large part of our citizenry." The President called for a new immigration system that would be a "fitting instrument for our foreign policy and a true reflection of the ideals we stand for, at home and abroad." ⁸¹ The House overrode the President's veto by a vote of 278 to 113 and the Senate joined the lower house by passing the measure 57 to 26...a shift of only two votes would have sustained Mr. Truman's veto.

The Council of Churches of Christ labeled the bill, "An affront to the conscience of the American people." And, Richard Cardinal Cushing wrote: "It cannot be defended without recourse to the discredited and unChristian tenets of racism." The Synagogue Council of America bemoaned the fact that "it flies arrogantly in the face of everything we know and have learned, and stands as a gratuitous affront to the peoples of many religions of the world."

Observers of the American scene were not surprised to see the restrictionists bloc continue to hold sway in Congress. They were certain that the Conservatives would be deaf to pleas such as the one written in 1950 by Irving M. Engel: "Let there be freedom (for the immigrant) to earn a living without arbitrary or discriminatory barriers, to rise in the world

according to individual merit, to take part in government under a system in which all votes are equal, to worship God in one's own way without fear or favor."⁸² He stood in opposition to the Internal Security Act of 1950 - which Senator McCarran authored as a prelude to the omnibus measure two years hence - and he called for the elimination of quotas, the admission of more than 153,000 immigrants per year (one-tenth of one per cent of the United States population in 1950) and the issuing of visas on a first come - first serve basis (with an improved right of appeal if an applicant is rejected on questionable grounds).

If these changes were enacted, the American Jewish Committee president proclaimed: "This would strengthen our efforts to win the minds and hearts of men. They would know that America really means what it says when it proclaims its adherence to the great principles of freedom, liberty and equality. Suspicion and scepticism would vanish, and our hands would be immeasurably strengthened in the great fight we are now waging against the powers of darkness and evil that are threatening to engulf the world."

And, it was the fear of these "powers of darkness and evil" that must have prompted Senator McCarran to push his legislation through Congress, first in 1950 with the Internal Security Act and then in 1952. In order to lay the ground for the first measure, the Senator chaired extensive hearings in 1949 as a means of determining the extent of Communist activities in alien and national groups. Fact was confused with fiction; isolated instances were thrown up as general rules of conduct. Just as the 1911 report on immigrants gave a "rational" basis for the earlier discriminatory laws of this century, so these hearings, held in an august manner, were

used to frighten people into believing that something drastic had to be done so as to rid the United States of the "red menace" which an uncurtailed immigration would enhance.

Here is an example of the testimony: "On Tuesday, September 7, 1943, an executive meeting was called by the upper West Side section of the Communist Party. All executive committees of the seventh, ninth and eleventh assembly district clubs were present; Goldie Young presided; Abe Chapman was the principal speaker.

"The meeting was called to make plans for a campaign to get the Jewish membership of the Communist Party to join mass Jewish organizations for the purpose of changing and formulating the policies of the American Jewish Congress. Chapman said that the Communist Party presently had no voice in that organization, but that if our comrades joined mass Jewish organizations, it should not be long before the policy of the Communist Party could make itself felt." ⁸³ The hearing was adjourned for the day at this point; leaving an implied link between American Jewry and the Communist Party, and there was no attempt to clarify the matter later.

It is to be remembered that one of Senator McCarran's devices to attain his goal of more stringent restrictions was to have a prolonged investigation made into our entire immigration policy. Here is an example of the lack of objectiveness which underscored this massive document: "Having the quotas proportioned according to the make-up of the American stock seems to be generally accepted as the best method of allotment. Regardless of the argument used by the opponents of the various plans, the fundamental objection is always that the quota of a particular nationality has been cut...The United States can only be an asset to the

world if she keeps her institutions intact. Only by the preservation of our unity can we be a factor for good in world affairs." ⁸⁴ The recommendations offered in this extensive work dovetailed in every detail that which Senator McCarran wished to enact into law.

The American Jewish community joined the liberal forces of the nation to beat back the surging gang of restrictionists. A writer observed: "It is significant to note that the leadership and initiative in advocacy of the liberal immigration position was exercised largely by civic and welfare organizations inspired by humanitarian motives and concerns for liberal values, rather than by groups whose self-interest was involved." ⁸⁵

The activity of the important national Jewish organizations fell into the former class. For unlike the situation during the previous 25 years when the economic - and later, the very physical - survival of the Jews depended on holding open the doors of America, the European reservoirs of potential Jewish emigration had now been depleted through extermination and emigration. The Jewish concern, therefore, transcended any specific Jewish interest.

Its motivation was the awareness that the maintenance of the American tradition of welcoming the immigrant, the extension of the principle of non-discriminatory policies on racial or religious grounds, the protection of the rights of naturalized citizens and resident aliens, and the preservation of fair judicial process, are of vital importance to a healthy and democratic American society, as well as being indispensable to America's role in building a stable world order.

The important national Jewish organizations functioning in the field of community relations, the American Jewish Committee, American Jewish Congress, Anti-Defamation League of B'nai B'rith, Jewish Labor

Committee, Jewish War Veterans plus the National Council of Jewish Women, as well as the immigrant agencies such as United Service for New Americans and Hebrew Immigrant Aid and Sheltering Society repeatedly urged the adoption of a liberal immigration law.

On March 12, 1952, several of them joined with other organizations in a public statement urging the House of Representatives to vote down the Walter bill. On April 8, the Jewish "operating" or casework agencies joined with other non-Jewish "operating" agencies in urging rejection of the McCarran-Walter bill and passage of the much more liberal Humphrey-Lehman bill.

On April 18, the Synagogue Council of America joined with the National Council of Churches of Christ in the USA and the National Lutheran Council in urging Congress to adopt an enlightened immigration program. All of the major organizations repeated the same plea on April 20, as did the Central Conference of American Rabbis on June 12. On June 23, following the passage of the McCarran-Walter bill, the National Community Relations Advisory Council, in the name of the major national Jewish groups and twenty-four local Jewish community councils, urged the President to veto it.

Finally, on July 25, after Congress overrode the President's veto, the same organizations participated in a delegation of numerous religious, nationality and civic groups in a successful plea to the Platform Committee of the Democratic National Convention to include a liberal immigration plank

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in the party platform.

Thus it was that when the restrictionist bloc had scored its most telling victory since 1924, the liberal forces in America's religious and

social welfare community gathered its full might for an all-out effort to defeat the restrictionists once and for all.

And, as in the past, the White House was a source of strength to the embattled warriors fighting on the side of liberal legislation. President Dwight D. Eisenhower recalls: "On April 22, 1953, I asked the Congress for legislation admitting to the United States 120,000 Europeans each year for two years in an attempt to by-pass the enacted McCarran-⁸⁷ Walter Act of 1952."

Proponents argued for the President's measure on humanitarian grounds, while foes said that "foreigners would take away Americans' jobs." Some feared that we would admit Communist spies; others contended that all true anti-Communists should stay in Europe and fight a war of liberation. Senator McCarran told his colleagues: "We must be careful not to pass a surplus-population bill in the guise of a refugee measure, or permit the classification of refugees in such a way as to open the door to Communist penetration."

The President found grass-roots support, including a host of Jewish organizations which were sympathetic to the plight of Eastern Europeans who were victims of Communist oppression. Mr. Eisenhower held firm and his refugee bill was enacted.

With that victory under his belt, the President encouraged a select Commission on Immigration and Naturalization appointed by Mr. Truman, to continue its exhaustive study and then recommend changes in the nation's immigration system. Among those who appeared before the Commission was Rabbi Abba Hillel Silver, who stated: "Racial discrimination creates disunity at home and resentment abroad. It interferes with our foreign relations and the role of international leadership which destiny has thrust

upon us in recent years. It is one of the fundamentals of our political philosophy and an essential part of our foreign policy to treat all people alike, regardless of race or origin.

"We stand committed to the principle of fundamental human rights for all men alike...We cannot press for international acceptance of these principles and at the same time offend nations and races by discriminating against them in our own immigration laws."

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A spokesman for the American Jewish Committee and the Anti-Defamation League, Lester Gutterman, testified: "Our immigration policies and practices are of vital importance in preserving the health of our democratic American society, and play a major role in our country's leadership in the maintenance of a stable world order."

It was clear that the President would press for a law which would replace the McCarran-Walter Act, and the Central Conference of American Rabbis responded by declaring: "We condemn those provisions of the McCarran-Walter Act that contain national origin quotas, threats to the security of the foreign-born, and those other violations of the essentials of democracy. We applaud President Eisenhower for his opposition to this law, which he has characterized as 'thoroughly undemocratic in its nature.' We call upon the Congress of the United States to amend the McCarran-Walter Act in such manner as to reaffirm America's position as the defender of the free human spirit by enacting democratic and workable immigration legislation."

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The Union of American Hebrew Congregations' Commission on Social Action began to publish and distribute literature for congregational and community consumption, recommending a program of action to arouse citizens'

interest in curing the maladies inherent in the immigration laws. It suggested among other things, that pressure for change be built up within congregations, that Congress be petitioned, that individual members write to their Congressmen, and that interreligious support be obtained.⁹⁰

The Anti-Defamation League, also, published material that was used to educate the general public and to arouse support for a new set of immigration laws.⁹¹ This type of literature pressed the following point: "With knowledge of the facts, the American people will no doubt agree with the judgment of the President and will insist that Congress substantially amend its present undemocratic immigration law. Citizens, who feel strongly about this question, are playing an effective role in securing a more democratic statute. They are informing members of Congress of their feelings on the issue. By this action, they are helping to decide what kind of America their children will inherit."⁹²

Books on the subject also helped stimulate public opinion to favorably support anti-restrictionist sentiments and actions. One, by J. Bruce Campbell,⁹³ illustrated the inhumane situations that occurred as a result of the current immigration laws; the author called for a complete overturn of these undemocratic practices. Another, Civil Rights In Immigration,⁹⁴ emphasized the overt discriminatory attitude which influenced the authors of the nation's immigration measures beginning in 1924. The author quoted President Eisenhower, when discussing the McCarran-Walter Act: "It (the bill) does in fact discriminate...I have been informed by members of Congress that it was realized when the statute was enacted that future study of the proper basis of determining quotas would be necessary."⁹⁵

At its February 6, 1955 meeting in New York, members of the United HIAS Service adopted a resolution saying: "The delegates to this meeting return to their respective communities and ask citizens to urge the 84th Congress of the United States to repeal or amend the present (immigration) law and in its place enact liberal legislation that will uphold the noble democratic stand our nation has always taken in its immigration policy, so that the United States may continue to stand before the whole world as the exemplar of humanity and democracy, and of the glorious idealism of our Constitution...The 84th Congress should be urged by citizens of the communities represented here to initiate at the earliest date with a view to enacting sound immigration and naturalization laws for the United States." 96

A similar resolution was voted upon a year later.

Meanwhile, the American Jewish Committee's Executive Committee issued a statement on May 9, 1954, which said in part: "We reaffirm our objections to the McCarran-Walter Act because it is a law of exclusion rather than of immigration; it is based on race discrimination; it establishes unnecessarily harsh rules for deportation without adequate procedural distinctions between native-born and naturalized citizens...The adoption of an enlightened and liberal immigration and nationality policy will bring this vital aspect of American life into consonance with traditional American ideals and principles, and thus promote unity at home and advance our relations with other nations of the free world." 97

In all fairness, one must remember, as Dr. Louis Finkelstein recalls the early 1950's: "The large body of the American public was eager to accept the McCarran-Walter bill, which they were persuaded was a powerful weapon to smash the 'Communist consiracy.'" Thus, it took a great deal of courage

on the part of the President to stand opposed to the measure. And, it was difficult for an elected official to swim against the tide of public
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opinion.

One who did "swim against the tide" was Senator Herbert H. Lehman of New York, who offered a substitute measure, because he felt that the McCarran-Walter Act was an invasion of civil liberties. Although the Senator was up for reelection and knowing that his constituency favored the McCarran bill, he said: "I cannot stand above the battle; I identify myself with the victims of oppression and discrimination whoever they may be." The Senator was reelected, and the battle for liberalized legislation continued.

On October 1, 1954, the American Immigration Conference was organized by representatives of some fifty-four voluntary organizations, to serve as "a common medium for the exchange of information and experience; effective cooperation among member agencies; joint action by those members who desire it; study of American immigration laws and their administration; an educational campaign on behalf of an immigration policy consistent with the
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objectives of the conference; etc."

On January 31, 1957, President Eisenhower addressed Congress: "In the four and a half years that have elapsed since the enactment of the Immigration and Nationality Act, the practical application of that law has demonstrated certain provisions which operate inequitably and others that are outmoded in the world today. Prompt action by the Congress is needed looking toward the revision and improvement of that law."

A host of Jewish communal organizations were cheered by these words, and finally relief from restrictionist tendencies came into view: S. 2792

passed the Senate on August 21, 1957, by a vote of 65 to 4, and the House on August 28, by a vote of 293 to 58.

While this refugee bill had its limitations, it was supported by the non-restrictionists as the first step toward the enactment of a completely revised immigration statute. This particular measure permitted the entry, quota-free, of orphans coming to this country to be adopted by United States citizens. It gave relief to politically oppressed immigrants who had given false information upon entry because of fear that their families left in Eastern Europe would be persecuted had they told the truth, and the bill waived finger-printing of visiting aliens while eliminating restrictions imposed on national quotas imposed by earlier displaced persons provisions, thereby releasing to German, Austrian, and Dutch (Indonesia) refugees unused quotas for 18,656 visas.

Testimony was given jointly by the leading Jewish organizations which "sought to rebut the anti-immigration arguments of the witnesses of several organizations; e.g., Junior United Order of American Mechanics and the Patriotic Order of the Sons of America." 100

The American Jewish community was unwilling to rest with this one token victory - it sought to eliminate the evils of past legislative activity completely. For example, on February 23, 1958, United HIAS Service commended "the President and the Congress on the progress in the changing of the immigration law made during the past year," but "urged (Congress) to take prompt action with a view toward formulating basic revisions in our existing immigration and nationality law consistent with the long democratic tradition of our nation..."

Toward the end of the decade, the National Community Relations Advisory Council issued a statement which said: "We shall continue our educational activities to increase public understanding of the need for early liberalization of our national immigration policy and particularly for replacement of the national origins quota system by a decent, humane, and equitable basis for the selection of immigrants consistent with our national needs and interests.

"Meanwhile, we shall continue to urge the State Department to expedite processing of visas for admission of fugitives from Communist and other tyrannies as authorized by law in the last session of Congress." The N.C.R.A.C. said that it was "distressed to observe that despite repeated pledges by both political parties and reiterated commitments by the Administration during the past six years to bring about basic reforms in our national immigration policy, there has been no determined effort either in Congress or by the Executive to redeem these pledges." 101

Words were not enough; the American Jewish community wanted action, for it scented a total victory at long last.

G. 1960 - 1966

Public opinion had been stimulated. National organizations, important individuals, communities across the land, and a growing number of men and women in Congress were demanding that our discriminatory immigration laws be repealed and that new measures be enacted which would better convey the true nature of America's attitudes toward the foreign-born in the latter half of the twentieth century.

Late in the 1950's, the Central Conference of American Rabbis raised

its voice again in favor of change: "President Eisenhower's recent recommendations for changes in the operation of the present Refugee Relief Act were welcome words to all of us. The plain and simple fact is that the refugee program is a national disgrace.

"As of May first of this year (1955), only 30,652 visas had been issued instead of the 209,000 that had been authorized by the end of 1956, and very few of these (people approved for admittance) have been admitted to this country because the administration of the McCarran-Walter Act has been in the hands of 'security agents'...The national origins quota system on which the Act is based is avowedly racial, in the image of Nazism, and should be erased from our statute books..."

"We recommend that the Congress schedule hearings on existing immigration legislation with the view of repealing the racist Mc-Carran-Walter Act and substituting for it legislation in consonance with the humanitarian principles of our government and nation."
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In late 1959, as a way of building up sentiment in favor of new immigration legislation, the Anti-Defamation League of B'nai B'rith published a pamphlet written by the then junior Senator from Massachusetts, who had authored and pushed through the only liberal amendment to the McCarran-Walter Act; also, he had obtained legislation which enabled the unfortunate victims of natural disasters in the Azores and victims of political persecution to emigrate to America.

Among other things, John Fitzgerald Kennedy wrote: "One writer has defined four phases in the history of American nativism. The first was simply antagonism of the older immigrant groups toward the newer ones. The

second phase centered on the Irish immigration and was characterized by anti-Catholicism. The third phase began with the eastern and southern European wave and was partly anti-Catholic, partly anti-Semitic, but basically anti-urban. It coincided with the explosive population growth in urban centers and the shift in political and economic power that this growth foreshadowed. The fourth phase, following World War II, was bound up with the wave of anti-Communist feeling.

"The history of every people includes some shame - events and movements that should never have happened and are best forgotten. Such is the case with the native-American movements. Particularly shameful were the second and third phases which evoked waves of hysteria and bigotry never before or since matched in the United States."

In commenting on the Immigration Acts of 1924 and 1952, Mr. Kennedy explained: "One writer has listed six motives behind the Act of 1924. They are: 1. Post-war isolationism; 2. The doctrine of the innate superiority of Anglo-Saxon and Teutonic 'races'; 3. The fear that 'pauper labor' would lower wage levels; 4. The belief that people of certain nations were less law-abiding than others; 5. The fear of foreign ideologies and subversion; 6. The fear that entrance of too many people with different customs and habits would undermine our national and social unity and order."

"All of these arguments can be found in Congressional debates on the subject and can be heard today in discussions over a national policy toward immigration." They have prevailed. In 1952, the policy of 1924 was continued in all of its essentials by the McCarran-Walter Act.

"This law, and the various other general and special immigration laws passed since 1952, emphasize the inadequacy of the general statute

as a guide to immigration policy."

Reminding the reader of the gross discriminatory nature of the Act of 1952, the future President quotes one of his predecessors. President Truman had said, on the occasion of vetoing the McCarran-Walter Act: "The idea behind this discriminatory policy was, to put it boldly, that Americans with English or Irish names were better people and better citizens than Americans with Italian, or Greek, or Polish names...Such a concept is utterly unworthy of our tradition and ideals."

Mr. Kennedy summarized: "There are a few basic differences between the most liberal bill offered in recent years, sponsored by Senator Lehman, and the supporters of the status quo. The present law admits 154,000 quota immigrants annually. The Lehman bill would have admitted only 250,000."

"The basic difference of opinion arises over the national origins quota system. Instead of using the test of where the immigrant was born, the Lehman bill would have made the applicant's individual training and qualifications the test for admission. These individual characteristics would be assessed in terms of America's current needs...

"A new, enlightened policy of immigration need not provide for unlimited immigration but simply for so much immigration as our country could absorb and which would be in the national interest...the most serious defect in the present law is not that it is restrictive but that many of the restrictions are based on false or unjust premises."

As if to enunciate what was to become his Presidential position on the subject, Mr. Kennedy concluded: "Such a policy should be generous; it should be fair; it should be flexible. With such a policy, we could turn to the world with clean hands and a clear conscience. Such a policy would be but a reaffirmation of old principles. It would be an expression

of our agreement with George Washington that the bosom of America is open to receive not only the opulent and respectable stranger, but the oppressed and persecuted of all nations and religions; whom we shall welcome to a participation of all our rights and privileges, if by decency and propriety of conduct they appear to merit enjoyment."

Another liberal in the Senate, Jacob Javits of New York, took an optimistic stance in 1960, when he wrote: "Neither anti-Semitism nor racial prejudice has ever been considered a respectable activity in the United States. It has always been something of which the people were ashamed and which was indulged in surreptitiously when it could not be supported entirely. Our country's political maturity and its rise to the leadership of the free world have intensified the fight against bigotry and the manifestations of discrimination wherever they may appear. In our history, we have tried in many ways to overcome this weakness in our democracy, and there may be no formula which can cure it. But it is a fact that our country has fought and generally overcome much of the grave prejudice against Quakers, Catholics, Jews, and other religious nonconformists, against Irishmen, Poles, Chinese, Japanese, Greeks, Italians, Levantines, and others of different national origins. It is still fighting serious prejudice against Negroes and those of Puerto Rican and Mexican extraction.

"That fight will go on until all Americans enjoy equally the opportunities and responsibilities of our democracy without regard to race, creed or national origin. This is the assurance of our freedom: that the denial of equality of opportunity will not be accepted as the norm in fact or in law."

The tide was beginning to turn at long last. The so-called "Fair Share" Act of 1960, like the earlier Displaced Persons and Refugee Relief Acts of 1948, 1950 and 1953, permitted the Executive branch to grant asylum and opened the door to hundreds of thousands of refugees who would have been excluded by the restrictive features of the basic Act of 1952. As observed by Sidney Liskofsky: "Though inspired by genuine humanitarian motivations, the special measures had the incidental, and in some cases intended, effect of lessening pressures for revision of this (1952) law." ¹⁰⁵

It may be that in some quarters these measures did help to lessen the urgency in Congress for a complete overhaul of immigration policy, but the Jewish community, by and large, maintained its constant campaign ¹⁰⁶ for change.

Typical of the statements that flooded the nation's press and the halls of Congress is the following resolution affirmed by the Council of Jewish Federations and Welfare Funds on November 4, 1960: "We are heartened by the fact that both major political parties expressed in their platforms the need for revision of our immigration and nationality laws, in keeping with the humanitarian and democratic traditions of our country. The specific statements of both candidates for the Presidency fortified this position and gave added support to our repeated recommendations in General Assemblies over the years for a revision of our immigration and nationality laws.

"The continued use of special refugee laws to meet emergency situations has not solved existing problems and our basic immigration law continues the national origins quota system and other provisions which we have heretofore deemed to be unsound and inequitable.

"We therefore call upon the members of our community organizations to do everything in their power to see that recent pledges are translated into specific legislation embodying the following principles:

1) That the number of quota visas available per year shall be based on the total population as shown by the most current census, not the 1920 census, thus increasing the annual quota from approximately 156,000 to approximately 250,000; 2) That, in such allotment, due consideration should be given to: family reunions; persons with outstanding skills urgently required by the U.S.; asylum for refugees, persecutees and escapees; and, finally, immigrants who have no special ties in the United States; 3) That when quota numbers are unused in a given year a pool shall be created for use in the following year by persons whose turn has not yet been reached; 4) That the non-quota category should be enlarged to include parents of U.S. citizens and legally resident aliens, and spouses and unmarried children of legally resident aliens; 5) That there be an expansion in the recent admirable trend to permit the granting of waivers of certain excludable conditions, where the interests of the United States are properly safeguarded; 6) That the punishment aspects of the deportation sections of the law be eliminated; 7) That there should be no distinctions between native-born and naturalized citizens; 8) That these benefits should be extended to all persons regardless of race or ancestry.

"These recommended revisions of our immigration and nationality law...would infuse our laws with the cherished humanitarian and democratic principles of our nation."

On November 14, 1960, immediately following the election of former Senator Kennedy to the Presidency, the U.S. Committee for Refugees drafted a resolution which embraced the items listed above and urged the newly

elected Administration and Congress to continue to bolster intergovernmental activity in this field, as well.

The statistics which follow indicate the extent to which the restrictive measures had affected Jewish immigration: "From the enactment of the national-origins quota laws of 1924 to 1944, Jewish immigration to the United States was 10.2 per cent of the total immigration, and that from 1944 to 1960 it dropped to 6.0 per cent. The high percentages recorded in 1947 and 1949 (19.87 and 21.89 respectively) can be attributed to President Truman's directive of December 22, 1945, and to the Displaced Persons Act of 1948 as amended, or what is known as emergency legislation. But for these instruments, Jewish immigration to the United States would have been only 107,400 during the postwar period and would have accounted for only 4.3 per cent of the total...Had there been no emergency legislation, general immigration would have been 22 per cent lower and Jewish immigration 107 44 per cent lower."

There was no doubt that a permanent corrective was needed so as to assure a sanctuary for Jews and other persecuted peoples.

Organizations continued to press for action. Interestingly enough, an examination of a resolution adopted by United HIAS Service at its annual meeting on March 10, 1963, shows that it is almost a word-for-word repetition of the CJFWF resolution cited earlier in this sub-section. Obviously, there was a united effort within the American Jewish community to help create a climate in which Congress would have no other choice but to enact a more liberal immigration law.

In a special message to Congress on July 23, 1963, President Kennedy called for the elimination of the national origins quota system in stages

over a five year period. In the House of Representatives, Congressman Emanuel Celler of New York sponsored the Administration's bill.

Congress took no immediate action. Then, in his State of the Union Message in January 1964, President Lyndon B. Johnson gave his slain predecessor's immigration law proposals his vigorous personal endorsement. The President on many other occasions spoke out in favor of a completely new system. Congressman Celler labored on this issue in the House and Senator Philip A. Hart of Michigan championed the cause in the upper chamber.

Congressman Celler was somewhat thwarted because of the conservative attitude of the chairman of the House Subcommittee on Immigration and Nationality, Michael A. Feighan of Ohio. Feighan was put under considerable pressure by Celler, the White House, individuals and groups in his home district (Cleveland), and by the Democratic leadership in the House. He finally gave up the battle and on February 4, 1965, in an address before the American Coalition of Patriotic Societies, Feighan called, for the first time, for the complete abolition of the national origins system. In the same address, he asked for a numerical ceiling on Western Hemisphere immigration, a proposal which was eventually adopted.

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During the course of the Congressional hearings which led to the adoption of the new immigration law, in addition to Administration, Congressional, communal and civic groups' spokesman, the American religious community, with rare exception, expressed itself as being in favor of the abolition of the system which was then the law of the land.

Murray I. Gurfein testified as a representative of the following

national Jewish organizations: American Jewish Committee, American Jewish Congress, Anti-Defamation League of B'nai B'rith, Jewish Labor Committee, Jewish War Veterans, National Council of Jewish Women, National Community Relations Advisory Council, Synagogue Council of America, Union of American Hebrew Congregations, Union of Orthodox Jewish Congregations in America, United Synagogue of America, and United HIAS Service.

Excerpts of his prepared statement and his subsequent testimony provides an ample opportunity to see the line of reasoning which had been adopted by the united American Jewish community in this final effort to attain a complete victory: "For many years, we have stressed the need for immigration legislation which, among other things would abolish the national origins quota system and introduce a new method of selecting immigrants that will better reflect American concepts of the dignity and worth of the individual. The bills here considered will accomplish these purposes.

"They would also give due consideration to such desirable ends as family reunion; the admission of persons with skills needed by the United States; and the granting of asylum to refugees, persecutees, and escapees; objectives which we know have frequently been sponsored by the chairman (Congressman Feighan) and other members of this committee...

"We have always joined with other organizations, Protestant, Catholic, Jewish and nonsectarian in supporting emergency legislation. It has been the conviction of our organization (United HIAS Service), however, that the basic immigration legislation of the United States should be revised in accordance with our position of leadership in the free world...

"The Members of Congress have always shown their sympathy to these (emergency) problems but the existence of permanent legislation will make our action less complicated, less time consuming, and enable us to cooperate expeditiously with other free nations in meeting these problems...

"In making these recommendations, I should like to say at the outset that at the present time, Jewish refugees and migrants do not constitute a major part of the prospective immigrants who are on the current waiting lists of persons desirous of emigrating to the United States. The problems facing the Jews of Europe in the aftermath of World War II, when 6 million had been murdered by the Nazis and when hundreds of thousands of survivors were seeking a home in safety, have in substantial measure been resolved...

"We are for H.R. 7700 (the Cellar bill) and S. 1932 (the Hart measure) because we believe that this legislation is fair, constructive and in the interest of the United States...

"We are for this bill because it is workable and because it is in our national interest. We are for it because it redresses long standing grievances inherent in the very nature of the national origins quota system. We are for it because in our humble view it will raise up the image of this country in every part of the world, as the champion of fair opportunity and equal rights."
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During that summer, both major political parties called for new immigration legislation. The Democrats' platform stated: "The immigration laws must be revised to permit families to be reunited, to welcome the persecuted and oppressed, and to eliminate the discriminatory provisions which base admission upon national origins."
110 The Republican Party called for: "Immigration legislation seeking to reunite families and continuation of the "Fair Share" Refugee Program."
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While both major political parties spoke out in favor of revised legislation, it is interesting to note the subtle differences in their call for a revised program. Wavering between conservatism and a more liberal posture, the Republican party was unable to maintain a consistent attitude. For example, only four years before, in 1960, the G.O.P. demanded doubling of the number of immigrants admitted each year and the use of the census of 1960, instead of that of 1920, as a legal base. As is quoted above, the 1964 platform - moving away from that liberal posture supported only "legislation seeking to reunite families" an ambiguous phrase which could be interpreted many ways.

The Democratic Party, on the other hand, stuck to its guns, urging that sweeping changes be enacted. This sharp distinction between the two groups was pinpointed by New York Times correspondent Anthony Lewis, who covered both party's conventions. On August 22, 1964, he wrote: "Yesterday, the platform committee of the Democratic National Convention was urged to adopt a plank calling for the repeal of the national origins quota system for admitting immigrants.

"The Democrats have taken that position in the past and can be expected to do so again. The Republican platform drafters, rejecting proposed moderate amendments, did not call for any major changes in the immigration law."

And so it seems, that despite the efforts of Dwight D. Eisenhower, when he occupied the White House, the G.O.P. as it again fell under the control of the more conservative wing, backed down. The Rightists were responsible for the nomination of Senator Barry Goldwater, whose own grandfather was a Jewish immigrant from Germany. But the Republican Party only

gave the appearance of favoring legislative revision. It did not speak out as resolutely as its Democratic counterpart.

This is only one more illustration of the obstacles which had to be overcome if the nation's immigration laws were to be altered in any meaningful manner.

Throughout the spring and summer of 1965, the Congress, from time to time, turned its attention to revising the immigration laws. The American Jewish community's spokesman continued to be Murray I. Gurfein, who quoted President Johnson as saying on January 13, 1964: "We have very serious problems in trying to get a fair immigration law. There is now before Congress a bill that I hope can be supported by a majority of the Members of Congress. This bill applies new tests and new standards which we believe are reasonable and fair and right.

"I refer specifically to: What is the training and qualification of the immigrant who seeks admission? What is his relationship to persons in the United States? And what is the time of his application? These are rules that are full of common sense, common decency, which operate for the common good.

"That is why, in my State of the Union Message, I said that I hoped that in establishing preferences a nation that was really built by immigrants, immigrants from all lands, that we could ask those who seek to immigrate now: 'What can you do for our country?' But we ought to never ask, 'In what
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country were you born?'"

Statements were submitted in behalf of a host of Jewish organizations which jointly and individually urged Congress to act favorably on the Cellar-
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Hart bills.

When the measure was reported out of committee in the Senate, on September 15, 1965, Senator Edward M. Kennedy, for Senators Hart and Javits and himself, took the Committee on the Judiciary to task for what was believed to be the only weakness in the proposed legislation; i.e., the imposition of a numerical quota on immigrants from the Western Hemisphere. Otherwise, the bill reached the floor incorporating in large measure that for which the American Jewish community and its allies had pleaded.¹¹⁴ The national origins quota system was to be eliminated.

Senator Kennedy was named floor manager and had the task of steering the measure through the Senate debate.¹¹⁵ The Jewish community, working through the National Community Relations Advisory Council, and the newly formed American Immigration and Citizenship Conference and the Citizens Committee for Immigration Reform, maintained an incessant campaign to pressure Congress to act favorably on the measure.

On August 25, the measure was passed in the House by a margin of 318 to 95 with 19 abstaining. The Senate voted for the bill on September 22 by a tally of 76 to 18 with 6 not voting. The Act was sent promptly to the White House for the President's signature.

Finally, on October 3, 1965, seated before the Statue of Liberty, in the presence of an assemblage of high government officials, distinguished citizens and representatives of cooperating organizations, President Johnson signed the new immigration bill, PL 89-236. Addressing his nationwide television audience, he stated that the new law "repairs a deep and painful flaw in the fabric of American justice. It corrects a cruel and enduring wrong in the conduct of the American nation. It will make us truer to ourselves as a country and as a people."¹¹⁶

An historical footnote needs to be added: In his year-end report to the President, Attorney General Nicholas deB. Katzenbach said on February 11, 1966: "The Immigration Act of 1965, which Congress passed upon your request and which you signed last October at the Statue of Liberty, was quick to begin meeting the national needs and humanitarian purposes for which it was designed.

"Although the Act has been in effect only two months, it has already reunited hundreds of families through its preferential admissions policy for aliens with close relatives in the United States...The act has made contributions already to national self-interest by permitting immigrants with special talents and skills, who have been anxious to emigrate, to settle here permanently."¹¹⁷

And so it was that the American Jewish community, along with all the other facets of this nation's society which consistently struggled for the return to and the retention of a liberal immigration policy, fought and won what appeared to be a lasting victory over those forces which had rooted national policy for several generations in the slime of racism and in the wasteland of ethnic superiority.

VI. CONCLUSIONS

Our survey is completed. We have gone the full circle, from the time that the United States welcomed the immigrant with outstretched arms, through a period when it became increasingly more difficult for most prospective immigrants to gain admittance, to an era when liberal legislation, once more, permits the qualified newcomer to come here regardless of his place of birth, his religious creed, or the color of his skin.

We have seen that the official immigration policy of the United States, as enunciated by Congress, has been influx. There has been a tension between the restrictionists and the liberals, as verbalized in Congressional debate. This has resulted in a struggle that has lasted for several generations, with one side dominating the other and with little room left compromise. In the eyes of nativists, liberals were attempting to permit the scum of the earth to come to these shores; on the other hand, the restrictionists appeared to be grossly undemocratic and deeply prejudiced.

We have given consideration to the factors which prompt people to emigrate, looking at internal conditions in Europe which served to be expulsive forces. We have tried to determine why the United States seemed to be the natural sanctuary for the world's displaced persons from its earliest beginnings to our own time. And we have offered the sociologists' explanations for many Americans' reluctance to accept newcomers. Additionally, we have suggested that there were both primary and secondary factors at play throughout the history of our Congressional liberals' and restrictionists' controversies and enactments.

We have surveyed the general historical foundation upon which this nation's immigration policy was built. Then, we have reviewed pieces of

legislation that established this policy. From 1789 to 1965, we have observed the ebb and flow of the power held by the Congressional restrictionist bloc, the split between nativists and liberals in Congress, the difference of opinion between the White House and the Capitol, the blatant prejudice that swept the country from time to time and its effect on both Congressmen and administrative officials who dealt with immigration problems. In some instances, we have seen how restrictive measures have been used as a weapon to restrain immigration even moreso; conversely, we have noted ways in which the laws have been circumvented so as to allow refugees to enter the United States under circumstances prohibited by legislation.

We have followed the course of immigration legislation, the socio-economic conditions that prompted it, and we have observed the American Jewish community's reaction to restrictive legislation. We have watched American Jewry unite over this issue, wage a battle for a liberal policy, studied its methods in stimulating favorable public opinion, observed the way it cooperated with its religious and secular allies, and found it victorious in its efforts but only after suffering a number of serious setbacks.

We have evaluated the consequences of fluctuating economic conditions, post-war isolationist tendencies, the fear of Fascism and Communism, and how these and other factors served to fortify the restrictionists and to deter the liberals who clamored for a more humane immigration policy.

Finally, we have noted America's assuming its place as the leader of the free world and its simultaneous willingness to take a more positive attitude toward immigrants. This has come about much to the credit of the

American Jewish community which contested those who insisted on restrictive measures, laws which all but prevented the United States from being the refuge for the oppressed.

Certainly, it is not our contention that American Jewry won this struggle singlehandedly. But, we have found and presented evidence pointing to the fact that the American Jewish community made a genuine and significant contribution in this area of national growth and pride.

American Jewry and its liberal allies have finally proven to the majority of our citizenry the validity of these words: "An unprejudiced study of immigration justifies our saying that the evils are temporary
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and local, while the benefits are permanent and national."

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103. "A Nation of Immigrants," New York, 1959, pp. 27, 32-37.
104. Discrimination - U.S.A., Harcourt, Brace and Company, New York, 1960, pp. 36-37.
105. "U.S. Immigration Policy," AJYB, Vol. 67, 1966. (Reprinted as a pamphlet, 1966, p. 4.)
106. Typical of the consideration given to refugee relief is "Hearings Before the Committee on the Judiciary" (August 3), U.S. Government Printing Office, Washington, 1961.
107. AJYB, Vol. 62, 1961, pp. 64-65.
108. Liskofsky, p. 5.
109. Part III, "Hearings before Subcommittee No. 1 of the Committee on the Judiciary," August 10, 1964, pp. 741-745.
110. "One Nation, One People," Democratic National Convention, 1964, p. 16.
111. "For The People," Republican National Convention, 1964, p. 14.
112. "Hearings before the Subcommittee on Immigration and Naturalization", 1965, p. 893.
113. See "Hearings before Committees on the Judiciary" of both Houses from March through August, 1965.
114. See "Amending the Immigration and Nationality Act," p. 59. The minority views of Senators Eastland, McClellan and Ervin (pp. 52-58) illustrate the contemporary restrictionists' arguments.

115. For an example of Senator Edward Kennedy's role as the floor manager for the immigration bill, see "Congressional Record," September 20, 1965, pp. 23557-23580.
116. Liskofsky, p. 1.
117. Office of the White House Press Secretary, for release February 15, 1966.
118. From an address by Oscar S. Straus, May 22, 1907.

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