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LOUIS DEMBITZ BRANDEIS AND ZIONISM

by

Stuart Mitchell Geller

Thesis submitted in partial fulfillment
of the requirements for the degree of
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DIGEST

The events of World War I changed the course of Zionism. The war divided Europe and consequently inhibited the lines of communication among European Zionists. The leadership of the World Zionist Movement fell to the Americans because they were neutral when the war began. At that time, Louis Brandeis emerged as the leader of the American Zionists. Brandeis was a controversial figure in American society and he became a controversial figure in Zionist circles. Brandeis understood the social and economic problems of the day and he offered innovative solutions, he brought those same mental powers to bear in his Zionist activities.

Brandeis has been condemned for using Zionism as a means for securing a nomination to the Supreme Court. He was condemned by the Jewish establishment of his day for his divisiveness. It has been asserted that though Brandeis was close to President Wilson, he did very little to urge the President to support the Balfour Declaration. And he has also been accused of being a poor loser when his authority was challenged by Chaim Weizmann. Almost from the time that Brandeis became associated with Zionist affairs, his Jewish credentials and sincerity were challenged. He has frequently been villified as an assimilationist.

My thesis is that Brandeis was a man of ideological consistency and character, and he was a concerned Jew. I have reviewed the various charges against Brandeis and

analyzed them. I find Brandeis not guilty. Rather, I found him to be a man of high principle, though rather inflexible. I have attempted to show Brandeis' major contributions to the theory of Zionism and his proper place in the activities of the Zionist movement.

Chapter One, "Brandeis Becomes a Zionist," is a discussion of the motivations for Brandeis becoming a Zionist. Until late in his life, Brandeis had no association with Judaism, the formal Jewish community, or Zionism. (Though the strong Jewish identity of his family was well known.) Some have asserted that Brandeis became a Zionist to prove to President Wilson that he was a "Representative Jew" and with his Jewish identification approved the way was cleared for the nomination to the Supreme Court. In the analysis of this contention, I traced Brandeis' association with President Wilson and the events that led to Brandeis' nomination. Brandeis' association with Zionism seemed to be idealistically motivated by a real concern for the new mass of Jewish immigrants arriving in America. The question then remains to be answered: "If Brandeis did not use Zionism for political opportunity, then what was the origin of the assertion that Brandeis had done such a thing?" I have traced this innuendo to President Taft. The story is well recorded in the letters which he wrote to Gus Karger. For Taft wanted to be the first man to serve both as

President and as Supreme Court Justice. Taft was disappointed when Wilson appointed Brandeis to the vacancy on the Court. Taft participated in a national campaign to urge the Senate to refuse confirmation for Brandeis. In that campaign Taft asserted, without basis, that Brandeis was using Zionism as a means to an end. A matter that Taft wanted to believe, but a charge that was empty.

Chapter Two, "Brandeis as a Zionist Thinker," tells of Brandeis' major contributions to American Zionism. He worked out an ideology for Zionism that made it compatible with Americanism. For Brandeis was a very patriotic American, and he hoped that all peoples in America would contribute something to her greatness. In Zionism he found universal ideals, democracy, justice, honesty, and progressive idealism. Not only did he write of such things, but he actually tried to create a democratic system of Jewish representation in America. The result was the American Jewish Congress. Of course, Brandeis was attacked, and the Congress movement was attacked by the Jewish Establishment -- the American Jewish Committee. Nevertheless, Brandeis met them head on. The resulting battle was a stand off.

Chapter Three, "Brandeis and the Balfour Declaration," relates the significant role that Brandeis played in persuading President Wilson to support the issuance of the

Balfour Declaration. A number of scholars have analyzed the materials available and concluded that Brandeis' role was minimal or that it cannot be documented. I retraced the events that occurred in the White House and in the State Department and determined that Brandeis was successful in convincing President Wilson of the importance of the Declaration. Wilson was deterred for some months in his support of the Declaration, by a greater desire to negotiate a separate peace with Turkey. The separate peace was to be negotiated by Henry Morgenthau, Sr. In this affair, Brandeis played a major role. He notified Chaim Weizmann to be alerted to the Morgenthau mission, and he had Felix Frankfurter placed in the Morgenthau party to protect Zionist interests. When the Morgenthau mission failed, President Wilson was ready to again support the Balfour Declaration.

Chapter Four, "The Economic Basis for the Weizmann-Brandeis Conflict," is the unhappy story of the open fight between two of the great men in World Zionism. Many have argued that the fight was inevitable because Weizmann was the true Jew and Brandeis was an assimilationist. I have attempted to show that the conflict was actually based on Brandeis' attempt to reorganize the worldwide Zionist movement for efficiency. And that efficiency would have meant that Weizmann and some of his associates would have had their authority threatened. Weizmann argued for a

May, 1970

financial that was really only a plan for collecting charity. Brandeis argued for investments to build up Palestine into a light industrial state. With this accomplished, Brandeis was convinced that Jews would want to immigrate to Palestine and there they could become self-sufficient. Weizmann fought this plan, and the result was a vote of no confidence by the American Zionists for the Brandeis administration. After that vote, Brandeis was effectively removed from influencing either the American or World Zionist movement.

May, 1970

This thesis is dedicated to my loving wife Ellyn. In a very real way she has supported me in every way in the past decade of my studies. She carefully read this thesis as she did with so many other assignments over the years. Not only was she a careful reader but her suggestions and comments were insightful and helpful. With an understanding heart, she has stayed awake late into the night while I worked on this thesis. She deserves my every thanks and appreciation for the very real sacrifices that she has had to make in the years of our marriage in order that we both enjoy our mutual goal of my becoming a rabbi. Thank you so much Ellyn. This is the only page in the thesis that she did not proofread.

One Court Justice, and American Zionist leader. The fact that Brandeis was the first Jew ever to serve on the Supreme Court is one of those interesting "firsts" that is found in the footnotes of history books. That Brandeis was an assimilated Jew who had had no contact with a synagogue in the first fifty years of his life, and that he became a leader of the Zionist Organization of America, and that Rabbis and Jewish leaders relied upon his instructions is amazing. It is also eminently worth studying.

It is my thesis that the Zionism of Louis D. Brandeis was simply an extension of his own social philosophy. His Zionism flowed from a social philosophy that held dear the value of democracy. Of course, in 1913, Brandeis had done most of his crusading for democracy in the world of business. As Charles A. Beard explains:

American society, as Mr. Brandeis then conceived it, should not be dominated by huge monopolies and trusts, but should be the home of "the new freedom," in which small, individual enterprises

PREFACE

An Historical Analysis of the Zionism of Louis D. Brandeis is an attempt to analyze the thoughts and activities of Brandeis as a Zionist. For almost a half a century journalists, writers, lawyers, and scholars have been writing about the ideas and actions of this man. He was an outstanding personality of his day - social reformer, successful corporation lawyer, politician, confidant of President Wilson, Supreme Court Justice, and American Zionist leader. The fact that Brandeis was the first Jew ever to serve on the Supreme Court is one of those interesting "firsts" that is found in the footnotes of history books. That Brandeis was an assimilated Jew who had had no contact with a synagogue in the first fifty years of his life, and that he became a leader of the Zionist Organization of America, and that Rabbis and Jewish leaders relied upon his instructions is amazing. It is also eminently worth studying.

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American society, as Mr. Brandeis then conceived it, should not be dominated by huge monopolies and trusts, but should be the home of "the new freedom," in which small, individual enterprises

can flourish under the defensive arm of the government.¹

But Brandeis was interested in more than preserving competition in the American economy. He was proud of America, and he was patriotic. He tended to be a moralist who saw "bigness" (monopolies and trusts) as evil and the little man as good. He intended to show that he found in Zionism and Judaism these same values that had been his guiding light in his early career. He lauded those aspects of Judaism that he found to be democratic, and he identified Zionism with an oppressed minority. Thus, it was in this context that he came to the conclusion that for an American Jew to be a good American he must be a Zionist.

Before he became a Zionist Brandeis was already known nationally as "the People's Attorney." He earned this title by defending unpopular causes, fighting big business in the form of monopolies and trusts, representing labor unions in court, and denouncing corruption in government. It was Brandeis' habit to study a problem thoroughly not merely to point out a wrong to the general public, nor to be a muckracker, but to right a wrong. It was his amazing ability to study the legal and financial aspects of a problem and to then suggest an efficient and economical alternative solution. His hidden forte was accounting. And in this way his reforming drive had the greatest impact by proposing better ways to solve problems. Brandeis applied these same tried and tested methods to the problems

facing the Zionists during and after the First World War. Even though Brandeis was a liberal and a progressive, he was not an economic socialist. He was a thorough going capitalist even though he knew the system could oppress the working class of America. He also tried to create for Palestine a capitalistic economy that was based on his economic theories and accounting procedures. When the time came for Brandeis to play the part of a diplomat, he spoke to Lord Balfour and President Wilson not in terms of what the Zionists wanted, but rather why American backing of Palestine was worthwhile. For in every sphere of Zionist action, Brandeis operated with a sense of Noblesse Oblige for Jews in other countries who would be lead eventually to the democracy of Zionism.

because the main office of the Zionist organization was in Berlin. And thus it came to pass that because America was neutral at the beginning of the war, the center of Zionist activity was transferred to the United States. This organizational transfer was handled by Jacob de Haas who had been a personal secretary to Herzl in London. de Haas was a dedicated Zionist, a Herzelean, and had in fact been sent to Boston to create interest in Zionism in the United States.

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INTRODUCTION

The history of the Zionist movement is a history of conflict and disagreement about means to an end. It is a story of internal struggles for political power, and a tale of intrigue that involved more than the international aspirations of one nation. The Zionist movement has attracted many highly motivated and intelligent leaders including Theodore Herzl, Achad HaAm, Chaim Weizmann, Louis Brandeis and David Ben Gurion. It is almost startling to realize that the State of Israel came into being even though many of the brilliant leaders worked at cross purposes.

While England, France, and Russia were carving up the Ottoman empire during the First World War, the Zionists in Europe and the entire world were thrown into a great confusion because the main office of the Zionist organization was in Berlin. And thus it came to pass that because America was neutral at the beginning of the war, the center of Zionist activity was transferred to the United States. This organizational transfer was handled by Jacob de Haas who had been a personal secretary to Herzl in London. de Haas was a dedicated Zionist, a Herzlean, and had in fact been sent to Boston to create interest in Zionism in the United States. de Haas had known from 1904, (when Herzl died) that the Zionist movement desperately needed a strong leadership to replace Herzl. de Haas had known Brandeis for a

few years, and it was de Haas who arranged for Brandeis to become the leader of the Zionist forces in the United States. By January 1915, de Haas wrote in The American Jew² that Brandeis could be the world leader of the Zionist movement if the Europeans were willing to accept him.

It is interesting to note the similarity between Brandeis and Herzl. They both came to Zionism late in life and from very assimilated backgrounds. Both were major successes in other fields, and both were economically far removed from the suffering of the Jewish masses. Neither of these men had much of a Jewish education before their entry into Zionism. It is well known that Herzl began to think of Zionism as he watched the events in Paris during the Dreyfus trial. It is not so well known why Brandeis became a Zionist nor is there scholarly agreement about his motivations. Therefore, the first aspect of this thesis will be to investigate and analyze the available data concerning Brandeis' entry into Zionism. It was only after Brandeis became the Chairman of the Provisional Zionist Committee in August 1913, that he began to really understand the movement and to formulate his own position. It is from his own articles and addresses and some letters that Brandeis' general theory of Zionism can be reconstructed. It was in those first three years that Brandeis devoted his energies to organizing

a more broadly based Zionist organization. And even as his appointment to the Supreme Court was pending in the United States Senate (from January to June of 1916), Brandeis helped to form the American Jewish Congress.

As Allied victory seemed imminent, England began her plans of a mandate in Palestine. And in conjunction with the issuing of the Balfour Declaration, Lord Balfour came to America to discuss the matter with President Wilson and the State Department. It was at that time that Balfour met with Brandeis, and later Brandeis spoke of the matter with President Wilson.

After the war, Brandeis actually went to Europe to look into Zionist affairs at the peace conference in Paris. And he returned to Europe in 1920, to London, for the first Zionist Congress since before the war. At that meeting he found the organizational structure to be very disorganized, and as was his custom, he suggested a reorganization that would be more efficient. But he was not dealing with the business world, but the world of dedicated ideologues who saw this as a move to split the movement. An argument ensued which was carried to American shores in the next year. At Cleveland, in 1921, Chaim Weizmann personally denounced Brandeis' defacto leadership of the American Zionists. A vote of no confidence was given, and all of the leadership resigned. These were the leaders who had been close to Brandeis - de Haas, Stephen

Wise, Abba Hillel Silver, Judge Julian W. Mack, and some thirty others. Nevertheless, Brandeis continued his active interest in Zionism and also continued to exert leadership in the movement until his death.

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CHAPTER ONE

BRANDEIS BECOMES A ZIONIST

The impact of Brandeis on the Zionist movement was necessarily great because he brought to the movement an analytical mind and an ability to organize programs. The prestige of his membership, as a nationally known progressive, was elevated even higher when he was appointed to the Supreme Court. Brandeis brought new status to the American Zionist movement and gave the organization valuable connections with President Wilson and his advisors. Brandeis directed the movement in such a way as to give it the respectability of an American organization with an international outlook.

It has been seriously suggested that the opposite case is true. That is to say, Brandeis had failed in national politics, and he was seeking a Jewish constituency to improve his political assets. It is my thesis that this theory is based on a faulty reconstruction of the facts and disregards the motivations that governed Brandeis' professional life. As we shall see, Brandeis only became involved in movements that coincided with his personal set of values.

No one denies that Brandeis was nearly a completely assimilated Jew who had nothing to do with synagogues, Jewish organizations, or Jewish causes until he became an advocate of Zionism. Brandeis never denied these facts

and mentioned them from time to time in his addresses and essays. However, it is also well known that Brandeis was descended from a well known Jewish family and that he married a Jewish wife. Furthermore, his uncle, Louis Dembitz, for whom he was named, was a well educated Jew and an early Zionist in America. Brandeis' Jewish background, in other words, was by no means obscure nor inconsequential.

The main point that all of Brandeis' detractors make is his lack of a Jewish education. The most responsible scholar to investigate Brandeis' motivations is Yonathan Shapiro.³ Shapiro begins his reconstruction of events with an interview of Brandeis by Jacob de Haas (December 9, 1910) in the Boston Jewish Advocate. At that time Brandeis was crusading for reforms in insurance practices, and de Haas stopped by to ask him some questions. Then de Haas proceeded to ask him his opinions on Jewish matters.

There is room here [America] for any race, of any creed or any condition of life but not for Protestant-Americans, or Catholic-Americans, or Jewish-Americans, nor for German-Americans, Irish-Americans or Russian-Americans. This country demands that its sons and daughters whatever their race, however intense or diverse their religious habits of living or of thought which tend to keep alive differences of origin or classify men according to their religious beliefs are inconsistent with the American idea of brotherhood, and are disloyal.⁴

Shapiro rightly asks what made Brandeis change his mind and go to the opposite extreme of what he was saying by 1913. If this were all that Brandeis had said on the subject, he would indeed seem inconsistent himself, and by his own definition "disloyal." However, the entire article on that day is headlined, "THINKS THE JEWS SHOULD STILL BE A MORAL ENSIGN TO THE NATIONS," and the sub headline reads, "Louis Dembitz Brandeis Sympathizes with Zionism and Believes in the Theory of a Jewish Mission." The paragraph Shapiro quotes is only a small section of the entire interview which shows Brandeis to be a little inconsistent that day. For when Brandeis was asked what he thought of the Zionist movement he commented:

I have a great deal of sympathy for the movement and am deeply interested in the outcome of the propaganda. These so called dreamers are entitled to the respect and appreciation of the entire Jewish people. Nobody takes greater pride than I do in the success of the individual members of my race. I mean success in a higher sense and I believe that the opportunities for members of my race are greater here than in any other country. I believe that the Jews can be just as much of a priest people today as they ever were in the prophetic days.⁵

Nevertheless, it is interesting to note that even in 1910, Brandeis had nothing negative to say against Zionism per se. The rest of the interview also sheds light on the character of Brandeis, and I shall return to it in the next chapter.

According to Shapiro the forces pushing Brandeis along the road to Zionism were in the defeat of his attempt at national politics in the Spring of 1912, when Brandeis openly backed La Follette for president on the Progressive ticket. It was after this defeat that Brandeis discussed Zionism with Jacob de Haas for the first time. Shortly thereafter, in August of 1912, Brandeis publicly supported Woodrow Wilson for the presidency. He soon became one of Wilson's closest advisors and was one of the architects of "the New Freedom." Shapiro relies heavily on the events in the early days after the election to support the thrust of his thesis. Shapiro correctly points out that Wilson considered naming Brandeis to two different cabinet posts - first Attorney General and a short time later Secretary of Commerce. Shapiro then turns his attention to those forces and their motivations that eventually convinced Wilson to deny Brandeis a seat in his new cabinet.

In Shapiro's view these three events are interrelated: On March 1, 1913, Brandeis is finally turned down for a cabinet post, on March 20, 1913, he participates in the welcoming ceremonies for the world Zionist leader Nachum Sokolow, (thereafter becoming more and more involved in Zionist activities), and on January 28, 1916, Wilson appoints him to the Supreme Court. Shapiro states,

Of all the groups that opposed Brandeis successfully in 1912-13 - Jewish businessmen, prominent Bostonians, and the business community in general - only Jewish businessmen changed their position respecting his appointment in 1916.⁶

In order to analyze this hypothesis it is necessary to analyze events in this order; first Wilson's rejection in 1913, and then his decision to nominate Brandeis in 1916. For the question must be, could the politics of the American Jewish community have any relation to a president's decision in an appointment to the Supreme Court. After that decision is understood we must still consider whether Brandeis' connection to these events was in fact politically motivated or was this charge simply innuendo and thus mud-slinging. Finally, we must consider what could have been Brandeis' motivation in becoming a Zionist.

A. Wilson Considers and Rejects Brandeis

Wilson met Brandeis for the first time in August, 1912, when Wilson was just beginning his bid for the presidency. Not long thereafter Brandeis became his close advisor. After he was elected President, Wilson suggested Brandeis for the post of Attorney General in the forthcoming cabinet. According to Arthur S. Link,

Wilson had given in to the pressure to keep against making Brandeis Attorney General, but during February and early March, 1913, he seemed determined to bring the distinguished

"people's lawyer" into his official family, as Secretary of Commerce.⁷

Historians of Wilson agree that Wilson was pressured two different times concerning the possible appointment of Brandeis to various Cabinet posts. Although progressives wanted him either as Attorney General or Secretary of Commerce, powerful business forces were alligned against Brandeis. As Link summarizes Brandeis' position:

Yet Brandeis was also perhaps the best-hated man in the United States. Big businessmen and their lawyers regarded him as a harebrained radical bent on wrecking American prosperity. The financial leaders of Boston and their allies feared him all the more because he had fought against the acquisition of the Boston and Maine Railroad by the New York, New Haven, and Hartford Railroad - the climax of J. P. Morgan's campaign to monopolize the transportation facilities of New England - and because as Attorney General, Brandeis might prosecute the directors of the New Haven for violating the Sherman Anti-trust Act.⁸

Wilson faced anti-Brandeis men on every front. Even Colonel House considered Brandeis, "not fit for that place."⁹ William F. Fitzgerald, treasurer of the Wilson Campaign Committee in Massachusetts went to Washington during this period ostensibly to meet with New England congressmen to discuss New England's representation in the new Cabinet, but the real motivation was to keep Brandeis out of the Cabinet.¹⁰ Brandeis also lacked the general backing of the Democrats of Massachusetts.

...practically all of the party leaders of Massachusetts, blue-stocking and Irish alike, rose in rebellion. Thomas Riley, Democratic state chairman, and Humphrey O'Sullivan a party leader in Lowell, visited Wilson in Trenton on February 26, 1913. More impressive than their arguments were the letters of protest that they brought from Governor Eugene N. Foss, Mayor John F. Fitzgerald of Boston, Richard Olney, Colonel William A. Gaston, Henry L. Higginson, Charles F. Choate, Sherman L. Wipple, and Clarence W. Barron - practically the entire Democratic leadership in Massachusetts.¹¹

In the final analysis, it is obvious that these anti-Brandeis forces had their way with Wilson even though an array of progressives strongly supported Brandeis.

"Liberals like Edward A. Filene, Felix Frankfurter, Henry Moscovitz, and Norman Hapgood interested themselves in Brandeis' behalf, ...¹² Even La Follette and Bryan objected strenuously to the loss of Brandeis from the Cabinet and they had spoken up in his behalf.¹³ Nevertheless, Brandeis had no wide base of support in either the Republican or Democratic party because of his support of La Follette for President in the Spring of 1912, and his belated switch to Wilson in the Summer of that year.

On March 1, 1913, the public was informed of Wilson's choice of James C. McReynolds as Attorney General. In the following months Brandeis continued to advise Wilson, and,

as early as May of that year, Wilson was urging Brandeis to become the Chairman of the Commission on Industrial Relations.¹⁴

The documentation concerning the Jews who attempted to keep Brandeis out of the first Wilson Cabinet is scanty. However, Mason, Brandeis' biographer, relates;

"A very concerted effort is being made," Henry Moskowitz reported to Norman Hapgood, by "Jewish bankers and Jewish corporate interests" to eliminate him from cabinet consideration on the ground that he is not a representative Jew."¹⁵

This phrase "not a representative Jew" is the key factor in building the case that Brandeis made a concerted effort to prove to President Wilson that he was indeed a representative Jew. The phrase seems to have originated with Jacob H. Schiff. Schiff wrote a letter in 1913 to Max Mitchell (a Boston lawyer), and in 1915, he enclosed a copy of it in a personal letter sent to Brandeis. It read as follows:

I have been asked from time to time recently whether Mr. Brandeis may be considered a representative Jew, and to this I was able to give a qualified reply only but he is without doubt, a representative American.¹⁵

There can be little doubt that these complaints reached President Wilson. And even if he were unconcerned that Brandeis was not a "representative Jew" he still had to contend with the prospects of a controversy to begin his

first weeks of administration. It is obvious that all of these mitigating factors persuaded Wilson not to appoint Brandeis. Yet it can not be assumed that Brandeis' lack of Jewish support was a major factor in that decision. Indeed, no formal letters exist either in the Wilson Papers or in the Jacob H. Schiff, Louis Marshall, or Felix M. Warburg Papers to indicate that an organized Jewish campaign was waged against Brandeis.

B. Wilson Appoints Brandeis to the Supreme Court.

The only question one need concern himself with about Wilson's appointment of Brandeis to the Supreme Court is whether or not Wilson seriously considered the views of Jewish businessmen, or any businessmen for that matter, in his selection. As Baker reminds us:

Wilson had come to the Presidency with settled convictions regarding the place of the Supreme Court in the American system, and the kind of men who should be chosen to exercise the vast power implicit in its decisions. ...Wilson's first appointment to the Supreme Court Bench was that of James C. McReynolds. McReynolds had been Attorney General in his cabinet, appointed somewhat hastily, largely upon Colonel House's recommendations. ...Wilson appointed him to the Court, August 19, 1914, and he was promptly confirmed by the Senate, August 29th. He soon became a thoroughgoing strict constructionist, a conservative of the conservatives, and Wilson later considered that the appointment had been a great mistake.

Wilson had early been strongly attracted to Brandeis. They were kindred in spirit: both had constructive as well as critical minds, and both knew what it meant to be pilloried by relentless opponents. ...When the nomination of Brandeis was announced, a cry of radicalism at once went up. Preposterous attacks were made, not only upon the candidates' record, but upon his personal honour.¹⁷

Not only did Wilson have a very good understanding of the operation of the Court and the importance of an appointment, but he also had a very clear notion of what he wanted to accomplish in the political realm of his administration and in an ongoing way for the restructuring of the Supreme Court. As Arthur Link writes:

Those observers who predicted the President would adhere stubbornly to New Freedom concepts did not well understand Woodrow Wilson. He had broad political principles, to be sure; but he was no inflexible dogmatist on methods or details. As he thought the Democratic party offered the only hope of constructive, progressive changes, he believed his party's most important task was to stay in power. Nowhere did he come out and say that his desire to maintain the Democrats in power was responsible for the commitment he made to advance progressivism in 1916. Yet he became almost a new political creature, and under his leadership a Democratic Congress enacted the most sweeping and significant progressive legislation in the history of the country up to that time.¹⁸

Wilson wanted Brandeis to be confirmed by the Senate, for the fact is that Wilson evaluated Brandeis by a higher standard than that of his qualification as a "representative

Jew," for he knew that the appointment would have an impact on the Court and on the coming elections.

The first public sign of the new departure was Wilson's nomination on January 28, of Louis D. Brandeis to the Supreme Court. It was an open defiance of and a personal affront to the masters of capital as well as to conservative Republicans like Taft. Nor was the significance of the appointment lost upon rejoicing progressives and labor leaders.¹⁹

Perhaps Samuel Eliot Morison puts everything in its proper perspective by explaining:

The Presidential election had already been decided. Wilson and the Democrats planned the political campaign with unusual subtlety. They understood that the outcome would largely depend on whether the party could hold the progressives and Irish-Americans, now alienated by preparedness and fear of involvement in war on England's side. Well timed was the President's nomination of Louis D. Brandeis, foremost pro-labor and social-justice lawyer of the country, to the Supreme Court. He was confirmed by the Senate on 1 June after a bitter struggle with Republicans and big business interests.²⁰

In fact in the election which took place a few months later (November 7) Wilson was only narrowly reelected over Charles Evans Hughes, and it was the closest election since 1876. Wilson had displayed good political timing. The events that had gone on behind the scenes indicated that Wilson wanted Brandeis to be confirmed by the Senate, for he devoted extensive energies and efforts to that task.

C. Innuendo

The question as to the reasons for Brandeis' interest in Zionism can now be dealt with. It has been suggested that Brandeis' became a Zionist in order to further his political aspirations. This suggestion seems unwarranted in terms of explaining Brandeis as a Supreme Court Justice or as a Zionist. For if Brandeis was seeking a broad Jewish base for political action, why did he choose the Zionist groups when it was tiny and unpopular? Certainly the Zionist leaders were neither wealthy nor national figures.

If one follows this analysis that Brandeis was seeking political advancement through Jewish groups, one can only ask why did he not move into the American Jewish Committee. The leaders of the AJC Jacob H. Schiff, Louis Marshall, and Felix M. Warburg were acquainted with Brandeis, and from time to time, they corresponded with him concerning legal matters. If Brandeis really wanted to establish his Jewishness, it was Schiff he needed to impress, since Schiff was the Actual leader of the American Jewish community. Furthermore, the AJC leaders not only considered themselves non-Zionists, but they were very much afraid of Jewish nationalism. Consequently, Brandeis' move into Zionism was not calculated to win their favor.

Those who feel that Brandeis' move to Zionism was politically motivated point to the fact that Schiff did

not support Brandeis for a Cabinet post, but did support him for the Supreme Court. And they assert that Schiff changed his mind about Brandeis when Brandeis joined a Jewish movement. However, the fact was that Schiff usually voted Republican, but in 1916, he switched his support to Wilson.²¹ Schiff may have supported Brandeis for the appointment to the Bench, simply because he was a Wilson supporter. Furthermore, the evidence is very weak that Schiff tried to dissuade President Wilson. He merely suggested that Brandeis was not a "representative Jew." In stating that, he might have been reminding Wilson that he, Schiff, was still the leader of the Jewish community even if Brandeis were in the Cabinet. This point will of course, be open to conjecture.

As for Louis Marshall, he remained a Republican and furthermore, he detested any suggestion that Jews voted as a group for any one candidate.

While I am strongly in favor of the renomination and reelection of President Taft, I am utterly opposed to any plan whereby the Jewish people shall segregate themselves from the remainder of the citizens of this country for political purposes. We have no political interests which are different from those of our fellow citizens.²²

Brandeis certainly had not won Louis Marshall over by his embracing Zionism. Marshall could not have cared less, as he expressed himself in this letter to the Editor of only cared about the Jewish vote, then, when Brandeis faced

Der Tag, published on November 1, 1916:

I have had frequent occasion in the past years to protest against the Jews as such, participating in politics. ...For that reason I was one of those who protested against the appeal made by Mr. Morgenthau and Herman Bernstein to the Jews of America, urging them to support President Wilson because of what he had done for the Jews. What has he done for them that it was not his duty as the President to do? ...Other Presidents have appointed Jews to high office, and in the future it may reasonably be expected that, with the increase of the Jewish population, the proportion of Jews who will be selected for public office will naturally increase.²³

Thirdly, if Brandeis were seeking a political base, it would have been very irregular to alienate powerful Jews like Schiff. He certainly should not have challenged the authority of the American Jewish Committee with his own plans for a Jewish congress which Schiff bitterly opposed.

If Brandeis was a political opportunist, why did he turn to anything Jewish at all? If he intended building a political base of his own, he should have started working with the Democratic party - or at least, with the progressives. When one considers the amount of energy Wilson exerted in getting confirmation of Brandeis' nomination, it is obvious that Wilson was not only thinking of securing the "Jewish vote" for the upcoming election. Had Wilson only cared about the Jewish vote, then, when Brandeis faced

challenge after challenge in the Senate, Wilson could have easily sat on the sidelines and seen the nomination denied.

The hypothesis that Brandeis became a Zionist for political reasons is an incorrect reconstruction of the historical situation. Not only is it incorrect, but it also over estimates the significance of Brandeis' Jewishness and translates rumors into truth. If, then, it is not true that Brandeis became a Zionist for political gain, where did this idea originate? Certainly Shapiro has done an excellent job in his research of this period. Yet his hypothesis suggesting ulterior motivations to Brandeis, could have been underwritten by a contemporary of Brandeis. Ex-President William Howard Taft was a leader in the fight to stop Brandeis' confirmation by the Senate. Some of his comments on Brandeis would have lent support to Shapiro's case. Taft wrote as follows:

...his [Brandeis] superlative and extreme Judaism is a plant of very late growth. ...he was no Jew until he was rejected by Wilson as Attorney General, because the leading Jews of the country told Wilson that Brandeis was not a representative Jew.²⁴

Taft's statement gives every appearance of political mudslinging. It has no factual basis. Rather, as we shall see, it was motivated out of antipathy for Brandeis.

Now that the Gus Karger papers are available in the American Jewish Archives, it is possible to study Taft's

views concerning Brandeis in greater detail. Karger was a Cincinnati Jew, who reported the political news from Washington, D. C. Karger was well acquainted with Ohio political figures and when William Howard Taft was elected President in 1909, Karger acted as his press agent. Karger continued this close relationship with Taft even after he was no longer President. Fortunately for historians, his family saved Karger's correspondence with Taft.

Taft had every reason for disliking Brandeis, since the latter had been largely responsible for the greatest blemishes tarnishing Taft's administration.

Taft's Secretary of the Interior, Richard A. Ballinger, was accused by the Chief Forester, Gifford Pinchot, of misuse of coal lands in Alaska. When this information crossed Taft's desk, he handled it crudely. The case was subsequently heard in a congressional committee, where Pinchot was represented by Brandeis. Although the committee vindicated Ballinger, the public supported Pinchot and Brandeis. Taft was cast in a bad light. Furthermore, it drove a wedge between Taft and ex-President Roosevelt, who was an ardent conservationist.

It was widely known that Taft coveted a seat on the Supreme Court, and wanted to be the first President to serve in both posts. Taft was a thorough going conservative and was very unhappy to read on January 28, 1916, that President Wilson had nominated Brandeis to the Court. Taft was

realistic in realizing that Wilson was not going to appoint him to the Bench. Nevertheless, there had been a limited movement afoot to get Taft appointed.

For example, though Taft admonished Karger not to publish the list, he sent him a copy of a petition to President Wilson, urging the President to appoint Taft to replace Justice Lemar, whose seat had been vacated by death. Of the many signers of the petition were such noteworthy individuals as Joseph H. Choate, Elihu Root, and John Lowell.²⁵

Taft clearly could not stand Brandeis. On February 20, he continued his comments on Brandeis with this opinion:

The Brandeis evidence is revealing a professional crookedness--for I can call it no less a word than that--in Brandeis which will make an indelible stain on Willson administration, if he is confirmed and sent to the bench. ...I think the Jews have a right to complain that the first man selected from among them for the bench should be of such character.

As for Karger, he did not confine his views of Brandeis to Taft. Almost immediately after Wilson announced the Brandeis nomination, the Syracuse Journal editorialized, "AMERICAN HEBREWS HONORED BY THE BRANDEIS SUPREME COURT SELECTION." Gus Karger saved this editorial, and on February 2, 1916, he wrote the following personal letter to the Editor: his own purposes, a socialist,

Although I do not agree with you, I appreciate the compliment you intend to carry to the Jew of the United States. But you must have discovered, by this time, that the Jews do not measure the fitness of a man by his religious views, whether these views be of long duration or recently acquired; for if they were justified in endorsing a man for public office because he is a Jew, the others would be justified in opposing him because he is a Jew.

Correspondence, such as this, continued for more than six months between Taft and Karger. It is interesting to note how many times these men return to the Jewish aspect of Brandeis' career. On January 31, 1916, for example, ex-President Taft devoted almost all of his letter to Karger on the subject of Brandeis. It is worth quoting in its entirety:

WILLIAM H. TAFT
New Haven, Conn.

January 31st, 1916

My dear Gus:

Our worthy President has developed more qualities of Machiavelli than even I, with a full appreciation of the admirable roundness of his character, had suspected. When I think of the devilish ingenuity manifested in the selection of Brandeis, I can not but admire his finesse. Of course, joking aside, it is one of the deepest wounds that I have had as an American and a lover of the Constitution and a believer in progressive conservatism, that such a man as Brandeis could be put in the Court, as I believe he is likely to be. He is a muckraker, an emotionalist for his own purposes, a socialist,

prompted by jealousy, a hypocrite, a man who has certain high ideals in his imagination, but who is utterly unscrupulous in method in reaching them, a man of infinite cunning, of marked ability in that direction that hardly rises above the dignity of cunning, of great tenacity of purpose, and, in my judgment, of much power for evil. He is only one of nine on the Court, but one on the Court is often an important consideration; and even if the rest of the Court is against him, he has the opportunity to attack their judgments and weaken their force by insidious demagoguery, and an appeal to the restless element that can do infinite harm. I sincerely hope that he can be defeated in the Senate, but I don't think so. Your description of the outburst against him when nominated, together with the dark brown taste in the mouth of protesting Senators the next morning, is an indication of the satanic skill in his selection. The intelligent Jews of this country are as much opposed to Brandeis' nomination as I am, but there are politics in the Jewish community, which with their clannishness embarrass leading and liberal and clear-sighted Jews. I venture to think that the leading Jews of New York, Boston, Chicago, St. Louis, Cincinnati and the other cities, who are not bound up in emotional uplifting, and who do not now tend to socialism, are as much troubled over this appointment and as indignant as any of us can be, but Brandeis' foresight as to himself has strangled their expression lest they arouse bitter criticism against themselves by their own people. I talked with Isaac Ullman of New Haven, some little time ago about Brandeis. Isaac is on all the great Jewish committees, and he says there is a great feeling of antagonism toward Brandeis among the leading Jews, because his present superlative and extreme Judaism is a plant of very late growth. He says that he was no Jew until he was rejected by Wilson as Attorney General, because the leading Jews of the country told Wilson that Brandeis was not a representative Jew. Since that time, Brandeis has adopted Zionism, favors the New Jerusalem, and has metaphorically been

re-circumcised. He has gone all over the country making speeches, arousing the Jewish spirit, even wearing a hat in the Synagogue while making a speech in order to attract those bearded Rabbis whose invitation to the silver wedding in such numbers you promoted. It if were necessary, I am sure he would have grown a beard to convince them that he was a Jew of Jews. All this has made it politically difficult for not only the Jews but for anybody looking for office where there are Jews in the constituency, to hesitate about opposing Brandeis. The humor of the situation I can not, even in the sorrow of the appointment, escape. When I consider the heartfelt indignation of Lodge and Weeks at having to alienate the Jews of Massachusetts with their candidacies just before them, I derive some wicked amusement. Weeks is a candidate of the Shoe Machinery Company, and of all organizations in the country, Brandeis is anathema to them. Lodge's friends in Boston, Major Higginson and others, regard Brandeis as the most exalted type of dishonest trickster. Wilson has projected a fight, which with master art he will give the color of a contest, on one side of which will be ranged the opposition of corporate wealth and racial prejudice, and on the other side the downtrodden, the oppressed, the uplifters, the labor unions, and all the elements which are supposed to have votes in the election. This will lead to the confirmation because of the white-livered Senators that we have. The Senate has been LaFolletized and Gomperized so that it has ceased to be the conservative body it was. But as so often happens in such a well devised Machiavellian scheme, the ultimate result is not going to be to Wilson's advantage, if we nominate any man whose conservatism appeals to the business men. His willingness to put a socialist on the Bench, a muckraker, will drive from him the element that he might call upon because he has saved us from war, and that is strong among the business men. This appointment will be remembered long after

the excitement of the confirmation has passed away, and it will return to plague him, as it ought to. It is too ingenious and too unscrupulous. Machiavelli's philosophy and policy were lacking in some way. When you consider Brandeis' appointment, and think that men were pressing me for the place, es ist zum lachen. You know me well enough to know that my judgment on this subject is not in the slightest degree colored by the fact that men had suggested me for the place. I never for one moment credited the possibility of Wilson's considering my name. The thoughts of the Judges of the Supreme Court, if they could be interpreted, would form interesting reading.

I am coming down to Washington, as you know, and I shall be glad to continue this subject when I meet you. It will probably have worked itself out then, though there may be some people strong enough to continue to fight until then.

Affectionately yours,

Wm. H. Taft.

(handwritten) Horace writes he is delighted with the appointment but he would have preferred Walsh. I have written him that he evidently doesn't appreciate the perfectness of the nomination in all its phases. The only name in the same class is that of Gompers.

Mr. Gus J. Karger,
Post Building,
Washington, D. C.²⁶

William Howard Taft did not want Brandeis nominated nor did he want his appointment confirmed by the Senate. In early March 1916, Taft joined with five other former Presidents of the American Bar Association in submitting

to the Senate committee their objections to Brandeis. Nor could Taft stay away from Brandeis' Jewishness. Even after the Senate committee on nominations closed its hearings, Taft wrote to Senator Lodge:

As there is an element of racial support for him, it takes on the peculiar form that was to be expected. There is no opposition to Brandeis because he is a Jew, whether fit or not. There are many Jews who know that he is altogether unfit, but they have not the courage to speak out and seek to stem the current of that racial feeling that it is so easy for him to set moving. I observe that his friends have pulled the wires so as to make him the President of a great Jewish Congress, all for the purpose of bringing the political pressure of the Jews upon the issue of his confirmation.²⁷

And Taft's distaste for Brandeis found him receptive to this joke from Homer Albers, the Dean of the Law School at Boston University:

What is the difference between William H. Taft and Louis D. Brandeis? Why, the former is distinguished in Jurisprudence, and the latter in Jewish Prudence.²⁸

Where then did the notion that Brandeis was using Zionism for political gain originate? Taft makes it perfectly clear that these ideas came from the leaders of the American Jewish Committee -- i.e. via Isaac Ullman. The very phrase that Taft wrote in 1916, "he Brandeis" was no Jew until he was rejected by Wilson as Attorney

General, because the leading Jews of the country told Wilson that Brandeis was not a representative Jew," is identical with the theory subsequently propounded by scholars.

In his anger over the appointment of Brandeis, Taft was willing to accept any information about Brandeis as true. For there is no doubt that these men were on the opposite ends of the political spectrum. If there was anything to substantiate this charge, it was never brought forward. And, furthermore, in all of the fighting that went on in the Zionist arena, no one seems to have ever brought up this allegation.

The fact is that it is mudslinging and totally distorts Brandeis' motivations for becoming a Zionist. He was no Machiavelli, willing to bend and reverse his ideas for the over-all goal. In fact, as we shall see, he could be very inflexible and stubborn and insistent when his basic beliefs were involved.

D. Why Brandeis Became a Zionist

Brandeis realized that his Jewish background was weak, and thus he met the problem head on. This is the opening paragraph of a speech he gave over and over again in late 1915 and early 1916:

During most of my life my contact with Jew and Judaism was slight. I gave little thought to their

which had made it possible for German Jews like Jacob Schiff

problems, save in asking myself, from time to time, whether we were showing by our lives due appreciation of the opportunities which this hospitable country affords.

My approach to Zionism was through Americanism. In time, practical experience and observation convinced me that Jews were by reason of their traditions and their character peculiarly fitted for the attainment of American ideals. Gradually it became clear to me that to be good Americans, we must be better Jews, and to be better Jews, we must become Zionists.²⁹

It is obvious that certain events reflecting a changing Jewish situation in America drew Brandeis toward Zionism. Firstly, the number of Jews in America was increasing more rapidly than ever before in American history.

Once again, numbers tell much of the story which began in the 1880's. By 1900, there were 1,000,000 Jews in the United States, and about 3,000,000 in 1915. ...From 1904 through 1908, 642,000 Jews entered the United States. [In contrast] Germanic Jews had spread pretty thin across the United States, although, like their Christian neighbors, they later left the smaller towns for the large cities. The vast majority of East European Jews settled at once in the largest cities, above all New York, Chicago, Philadelphia, Boston, Baltimore, and Cleveland. If seven or eight smaller metropolises are added, over 90% of East European Jews are accounted for.²⁰

By the time Brandeis became interested in Zionism in 1912, the situation of the Jew was far different from that which had made it possible for German Jews like Jacob Schiff

to succeed in business and to become the leader of the entire American Jewish community. It is well known that Schiff looked disdainfully upon the flood of Jewish immigrants. And Simon Wolf, who was situated in Washington, even favored reducing the flow.

The American economy was slowly but surely going through important changes that would set the stage for the next development in capitalism. Certainly the old established German Jewish community was well aware of the Jews, who were poor and sickly, pouring into the port of New York.

This antagonism between capitalist and precapitalist Jews has made its appearance at every phase in history when two contradictory forms came into opposition with one another. The wealthy Jewish merchants and manufacturers of eighteenth century Berlin, Vienna and Leipzig had looked with dismay upon their fellow Jew steeped in degrading (i.e. precapitalist) occupations...

Every effort was made, therefore, by the representative of an adjusted American Jewry to control the tide of Jewish immigration so as to transform the mode of economic activity and the way of life that accompanied it.

Anti-immigrant feeling among non-Jews was to be found in the upper classes of New England who had made their fortunes primarily in the flush of the heyday of commercial capitalism and during the first phase of the development of manufacturing in the pre-Civil War period.³¹

Louis Brandeis broke with the pattern of rejecting these immigrants. Rather he accepted them for what they were. His goal was to Americanize them and his means was Zionism. As it was his custom to challenge old patterns in general so he now called into question the negative attitude of Jews to the new arrivals.

That is to say, that Brandeis had immediate insight into their problems. He had arbitrated labor cases as early as 1910, in the garment district in New York between Jewish workers and Jewish employers and he had seen the immigrant conditions first hand. Brandeis spent a number of years formulating his conclusions. Most scholars who have written about Brandeis emphasize the fact that he was involved with Zionism for years before he actually became an active leader. For example, Jacob de Haas relates that he had a number of conversations with Brandeis on the subject of Zionism before he actually joined the movement. Thomas Mason who interviewed Brandeis in 1940 has this to report:

...it was not until de Haas' South Yarmouth visit in August 1912 that his interest in Zionism was fully awakened. They were then consulting at William G. McAdoo's request about funds for the Democratic campaign. Their talk completed, Brandeis accompanied his visitor to the station. de Haas made some mention of Lewis Dembitz as a "noble Jew" and on being further questioned, launched into the subject nearest his heart - Zionism. He told the

story of his British birth and of the influence he had been able to exert on Henry Cabot Lodge. That an obscure, London-born Jew could gain the sympathetic ear of that stiff-necked Senator piqued the lawyer's curiosity. When de Haas told further that he had been London secretary to Theodor Herzl, his interest in de Haas' story was so profoundly aroused that he forgot vacation plans and invited his caller to stay for lunch and take a later train.³²

No doubt, few scholars would have been interested in this type of information if Brandeis had merely been a member of a Zionist organization. The scholarship stems from the influence he had on American and World Zionists. And in this respect, the major moment in Brandeis' Zionist history is when he assumed the leadership of the Zionists in America. The pattern that Brandeis followed and the significance of the war in Europe could have only meant one thing to Brandeis. He may not have wanted to serve in this capacity, but he had no choice for the movement desperately needed a man of his abilities. On August 20, 1913, how could he know what the results of the war would be, that America would even enter the war? He is accused of being a political opportunist, and yet his major Jewish action was to become an internationalist when American politicians were remaining neutral, when most American Jewish leaders, especially of German birth, were announcing their neutrality.

Brandeis was not so much "pushed" into Zionism by political events as he was pulled into Zionism because of the world situation. Brandeis' drift into Zionism was glacial, it was evolutionary. It is inaccurate to suggest that he totally changed his views of 1910, toward Zionism. His social goals and the manner in which he conceived of Zionism and the needs of the Jewish people simply began to coincide more and more. He is frequently quoted as saying that "Habits of living, of thought which tend to keep alive differences of origin or to classify men according to their religious beliefs are inconsistent with the American idea of brotherhood and are disloyal."³³ Yet, in that same interview he suggested two more things that he considered disloyal - failing to vote and being dishonest.³⁴ Brandeis was seeking a full participation by American Jews, indeed by all immigrants in American life. He wanted three things - non-discrimination, honest business practices, and citizen participation in government.

In the next chapter, I shall show how Brandeis conceived of Zionism as an Americanizing force that would change the immigrant into a citizen. Because of this point of view, Brandeis also Americanized Zionism and carved out an ideology for Zionism that made it compatible to American patriotism.

CHAPTER TWO

BRANDEIS AS A ZIONIST THINKER

Before World War I, the Zionist movement in America was small, disorganized and ineffective. The Zionists of that period commanded very little attention either nationally or in the Jewish community. The leaders of the Jewish community looked with disdain on the small movement.

With a Jewish population of 1,500,000 in 1905, the total Zionist membership of 25,000 represented a small percentage of American Jewry. Of this number, no more than a few hundred were active. Financially, the Zionist movement was extremely weak. ...In spite of persistent requests by Herzl that the FAZ [Federation of American Zionists] remit payment of shekel dues to Vienna, the organization was always delinquent in its response. Its financial situation was so weak that it would not satisfy Vienna's minimal request for a loan of about a thousand dollars. The total income of the FAZ in its best years was less than \$11,000.³⁵

When Brandeis became a Zionist in 1913, the biggest problem facing Zionism was the "non-Zionism" of the major Jewish leaders. Leaders like Jacob Schiff and Louis Marshall were not "anti-Zionist" they simply were not Zionists. American Jewish organizations have been marked by a predilection that they had the secret formula to help

Jews adjust to the American pattern. For Marshall and Schiff, this formula did not include moving on an international plane.

Although Schiff later changed his mind on the issue of Zionism, during the war years, he was adamantly against the movement. Schiff had been in correspondence with Solomon Schechter on this question, and in August 1907, he issued this statement:

...speaking as an American, I cannot for a moment concede that one can be at the same time a true American and an honest adherent of the Zionist Movement.³⁶

A month later, another letter to Schechter continued on in that same frame of reference:

...I reiterate that political Zionism places a lien upon citizenship, the enforcement of which the Zionist, if he is honest, must seek to accomplish by every legitimate means. The limitation, be it ever so distant, thus placed upon citizenship--not by the Jew but by the political doctrine of Zionism creates a separateness which is fatal.

In our own country the agitation is apt to retard to perfect Americanization of thousands who, in recent years, have come among us, and whose success and happiness in this and coming generations ...must depend upon the readiness with which the newcomers shall be able to become absorbed into the American people.³⁷

In retrospect it is clear to the historian that Schiff and his associates were drawing on the recent

experiences of Jewish emancipation and the attainment of voting rights in Germany. And thus they were concerned that any challenge to Jewish loyalty in America would harm the Jewish community here as it had in Germany.

Not only were Schiff's feelings generally known to the Jewish establishment, but Schiff personally spelled them out to Brandeis in the following letter:

February 29, 1916

Dear Mr. Brandeis:

It will likely not be long now before you will be called upon to assume the high position for which the President has recently nominated you, and as I take it, you will then no longer be able to continue as leader of the Zionist and Nationalist movement in this country.

May I, because of this, be permitted at the present moment to write you this frank letter and state it as my opinion that the Zionist movement has been doing, and is doing, under prevailing world conditions, great harm to the very cause for which it was originally called into existence.

On the highest authority I am informed, that the Ottoman Government will not permit any longer foreign Jews to immigrate into Palestine, and that in fact, because of Zionist activities, Jews in the whole Turkish Empire are looked upon with more or less distrust and suspicion.

It appears quite likely that if this state of affairs is not going to soon change to any extent, and that Palestine will remain closed to the Jew so long as the Zionists Nationalists insist that what they strive to

attain is the re-establishment of a Jewish Nation in Palestine.

You know, as I do, and perhaps better, that in consequence of the Zionist movement (and I do not say this as a reproach or in criticism) the Jews of the entire world have become divided into two camps, and that great harm is thus constantly being done to the cause of our people.

Is there no way to remedy this? Recently my attention has been called to a program which has been promulgated by the Society for Jewish Rights of England, of which Lucien Wolf is the President. The avowed object of the Society is to obtain the right for the Jew to freely settle in and establish colonies in Palestine, there to be assured equal civil-rights with the rest of the population, and municipal privileges whenever necessary and justified.

Personally I have been much impressed with this program, and it has occurred to me to submit to you whether an effort should not be made to unite Zionists and non-Zionists upon such or similar platform.

No matter whether at the end of this great war, the results of which no one can as yet foretell, Turkey will retain its suzerainty over Palestine or otherwise, no Government will permit any people to come into Palestine whose purpose it shall appear to be to form at some time a nation of their own within the domain to which they ask to be admitted.

I believe a united world Jewry may be able to succeed in convincing the suzerains of Palestine that such neither is nor shall in the future be the purpose of the Jews who immigrate there, the Zionists I am convinced, will never succeed in bringing home this conviction

to the Ottoman Government. Because of this, I appeal to you that, before your eventual retirement from Zionist leadership, you bring to bear your great influence upon the Zionist organization, for the reunion of Zionists and non-Zionists upon some such platform, as I have above stated, destined to lead to close cooperation between all elements in Jewry, a desideratum which to assure appears, particularly in present conditions, so very important and necessary.

If you can see your way to give consideration to this proposition, the first thing, in my opinion, to be done is to advise the cessation of the agitation for the holding of a Jewish Congress, which is but a project planned, in the first instance to promote Zionist aspirations. You may not agree with me, but let me say with every emphasis I am capable of giving it, that with the actual holding of the proposed Congress, the coming of political anti-Semitism into this land will be only a question of time. There is no room in the United States for any other Congress upon national lines, except the American Congress.

Signed Jacob Schiff³⁸

This letter is an important document because it clearly expressed both the ideology and the manipulative aspects of Schiff. When Schiff realized that Brandeis had to be recognized as a Jewish leader, then Schiff decided that Brandeis could be diverted, and manipulated into a non-Zionist ideology. But above all, Schiff was showing that he was a patriotic American and that his loyalty to American nationalism was unswerving.

Brandeis briefly replied to Schiff's letter, and as

very nearly had to be the case, Brandeis refused to move from his stated position.

March 3, 1916

Dear Mr. Schiff:

I am very glad to have your letter of February 29, but I find myself unable to assent to your general conclusions, and some of your assertions of fact seem to be erroneous. I shall hope, however, to have the opportunity of discussing this matter with you fully in the near future.

Meanwhile may I ask you to read my addresses on "The Jewish Problem," "Jewish Unity and the Congress," and "Jewish Rights and the Congress;" in which I have endeavored to set forth some of the reasons for the views which I hold.

Brandeis referred to the pamphlets "The Jewish Problem and How to Solve It." There he raised the question as to why Jews were rejected by so many levels of society in so many nations. Yet Brandeis faced a problem in the Jewish community that was not discussed in any pamphlet. He had to show that Zionism would not interfere with the rights of American Jews, or even interfere with their adjustment to America.

His solution was deceptively simple; he suggested that Zionism was a way to help hundreds of thousands of Jewish immigrants adjust to American life. In this way he was dealing with a problem that was central to the thoughts of Marshall and Schiff and the American Jewish Committee. Some observers have suggested that Brandeis was a

successful American who lent his name to the movement. However, as we shall see, Brandeis not only participated in the movement, but he did some serious thinking and writing about it. It is also true that he lacked even the basics of a Jewish education.

I have been to a great extent separated from Jews. I am very ignorant in things Jewish. But recent experiences, public and professional, have taught me this: I find Jews possessed of those very qualities which we of the twentieth century seek to develop in our struggle for justice and democracy; a deep moral feeling which makes them capable of noble acts; a deep sense of the brotherhood of man; and a high intelligence, the fruit of three thousand years of civilization.⁴⁰

In view of the fact that Brandeis' Jewish background was negligible, it is all the more amazing to understand his impact on Zionist thinking in America. For he Americanized Zionism and made it appealing to a large mass of Jews, and he made it understandable to American non-Jews.

A. Brandeis Americanizes Zionism

Brandeis always considered himself a patriotic American, and his patriotism emphasized democracy, justice, and equal rights as essential to the fabric of American society. He felt that America had much to offer each citizen, and this offering was equally open to new

immigrants. Brandeis' genius was to use Zionism as a means to "Americanize" new Jewish immigrants. In an age when some thought of assimilation and the "melting-pot," Brandeis conceived of "Americanizing" as retaining the positive aspects of one's former identity. Brandeis was willing to use Zionism as a method of instilling in Jewish immigrants the kind of nationalism that he thought was healthy for America.

Brandeis urged his concept of "Americanism" in a patriotic address given on the Fourth of July in 1915. The speech is a unique one and clearly outlines Brandeis' thinking on this subject. John G. Drushal gives us an added insight into this important speech in his intensive study of Brandeis' speeches. He comments about the Fourth of July speech:

The annual Fourth of July celebration in Faneuil Hall, Boston, is one of the oldest uninterrupted series of commemorative exercises in the United States. It is an occasion when Bostonians pay tribute to their own historic past, their own part in the struggle for independence. Brandeis addressed this celebration in Faneuil Hall on July 5, 1915. The audience on this occasion was made up of mixed nationalities from the area...It was the first time a Jew had been the city's orator for the day.⁴¹

In this speech Brandeis clearly lays out a series of questions and answers that reveal his exact concept of America and what he intended for new Americans. He asked:

What is Americanization? It manifests itself, in a superficial way, when the immigrant adopts the clothes, the manners, and the customs generally prevailing here. Far more important is the manifestation presented when he substitutes for his mother tongue the English language as the common medium of speech. ... But let us not forget that many a poor immigrant comes to us from distant lands, ignorant of our language, strange in tattered clothes and with jarring manners, who is already truly American in this most important sense; who has long shared our ideals and who, oppressed and persecuted abroad, has yearned for our land of liberty and for the opportunity of aiding in the realization of its aims.

It is amazing even at this late date to notice how clearly Brandeis saw the immigrant, and he clearly recognized that insofar as the national interest was concerned ideas are more significant than customs. His next question was:

What are the American ideals? They are the development of the individual for his own and the common good: the development of the individual through liberty and the attainment of the common good through democracy and social justice.

Of course, Brandeis was also a great American patriot and he conceived of a special role for America.

But what is there in these ideals which is peculiarly American? ...there is one feature in our ideals and practices which is peculiarly American. It is inclusive brotherhood.

America, on the other hand, has always declared herself for equality of nationalities as well as for equality of individuals. It recognizes racial equality as an essential of full human liberty and true brotherhood, and that it is the compliment of democracy. It has, therefore, given like welcome to all the peoples of Europe. ...America has believed that each race had something of peculiar values which it can contribute to the attainment of those high ideals for which it is striving.

That Fourth of July was the first one America celebrated as World War I raged. Neutrality was a constant concern to most Americans and must have weighed heavily on the minds of recent immigrants.

It was there Europe assumed by the stronger countries that the full development of one people necessarily involved its domination over another, and that only by such domination would civilization advance. ...the persecution of the Jews in Russia and Rumania, are the fruits of this arrogant claim of superiority, and that claim is also the underlying cause of the present war.

The world longs for an end of this war, and even more for a peace that will endure. It turns anxiously to the United States, the one great neutral country, and bids us point the way. And may we not answer: Go the way of liberty and justice -- led by democracy and the new nationalism. Without these, international congresses and supreme courts will prove vain and disarmament "The Great Illusion."

And let us remember the poor person of whom Chaucer says:

"But Criste's loore, and his apostles twelve, He taught, but first he followed it hymselfe."⁴²

On that Fourth of July, Brandeis was reminding his audience of the importance of immigrants and their particular value to American civilization. Americanization has been understood from time to time to mean a homogenized people symbolized by a melting-pot that molds the better American from raw materials. Brandeis was actually saying the opposite, for he felt that national qualities could be preserved and should be preserved in American life.

Only a month earlier, Brandeis had stood at Temple Emanu-El of New York City to address the Eastern Council of Reform Rabbis on June 2. Rather like Daniel in the lion's den, he approached one of the best known anti-Zionist aspects of Jewish leadership with his cause. His bold address was titled "THE JEWISH PROBLEM AND HOW TO SOLVE IT." In this speech, Brandeis followed his usual pattern of reducing a problem to its basic elements and then proposing a solution:

For us the Jewish Problem means this: How can we secure for Jews, where ever they may live, the same rights and opportunities enjoyed by non-Jews? How can we secure for the world the full contribution which Jews can make, if unhampered by artificial limitations?

The problem has two aspects: That of the individual Jew -- and that of Jews collectively. Obviously,

no individual should be subjected anywhere, by reason of the fact that he is a Jew, to a denial of any common right of opportunity enjoyed by non-Jews. But Jews collectively should likewise enjoy the same right and opportunity to live and develop as do other groups of people.⁴³

This approach could hardly be labelled as nationalistic although certainly he was indicating to the Rabbis that he wanted the Jewish people to continue as a differentiated people.

Brandeis reminded the Rabbis that even they were not all in agreement on definitions and then he suggested a definition of his own:

Councils of Rabbis and others have undertaken at time to time to prescribe by definition that only those shall be deemed Jews who professedly adhere to the orthodox or reformed [sic] faith. The meaning of the word Jewish in the term Jewish Problem must be accepted as co-extensive with the disabilities which it is our problem to remove. It is the non-Jews who create the disabilities and in so doing give definition to the term Jew.⁴⁴

And thus Brandeis takes up the argument from Theodor Herzl and argues that anti-Semitism is not caused by the Jews. He then develops the knotty problem of nationalism in a masterful way, drawing a distinction between nation and nationality.

The difference between a nation and a nationality is clear; but it is not always observed. Likeness between

members is the essence of nationality; but the members of a nation may be very different. A nation may be composed of many nationalities, as some of the most successful nations are. ...The false doctrine that nation and nationality must be made co-extensive is the cause of some of our greatest tragedies. It is, in large part, the cause also of the present war.⁴⁵

With this said, Brandeis then turned to the thornier problem of an assertion of Jewish Nationality.

We recognize that with each child the aim of education should be to develop his own individuality, not to make him an imitator, not to assimilate him to others. Shall we fail to recognize this truth when applied to whole peoples? And what people in the world has shown greater individuality than the Jews? ...The Jews gave the world its three greatest religions, reverence for law, and the highest conceptions of morality.

...shall we voluntarily yield to anti-Semitism, and instead of solving our "problem" end it by ignoble suicide? Surely this is no time for Jews to despair.⁴⁶

There are many ideologies in the World of Zionism, and many of them look with disfavor on the Jews living in the diaspora. Brandeis, however, favored a very mild form of Zionism, a form that displeased the fewest number of non-Zionists:

Let us bear clearly in mind what Zionism is, or rather what it is not. It is not a movement to remove all the Jews of the world compulsorily to Palestine. ...In the second place, it is not a

movement to compel anyone to go to Palestine. It is essentially a movement to give the Jews more, not less freedom -- it aims to enable Jews the same right now exercised by practically every other people in the world.

Zionism seeks to establish in Palestine, for such Jews as choose to go and remain there, and for their descendants, a legally secured home, where they may live together and lead a Jewish life; where they may expect ultimately to constitute a majority of the population, and may look forward to what we may call home rule.⁴⁷

Brandeis then reviewed the activities of the settlers in Palestine and what they had accomplished. And he suggested that these people needed support from American Jews. Then he spoke his most often quoted words, and suggested a whole new concept for the image of Zionism:

Let no American imagine that Zionism is inconsistent with Patriotism. Multiple loyalties are objectionable only if they are inconsistent. A man is a better citizen of the United States for being also a loyal citizen of his state, and of his city; for being loyal to his family, and to his profession or trade; for being loyal to his college or his lodge. Every Irish American who contributed towards advancing home rule was a better man and a better American for the sacrifice he made. Every American Jew who aids in advancing the Jewish settlement in Palestine, though he feels that neither he nor his descendants will ever live there, will likewise be a better man and a better American for doing so.⁴⁸

From the time that Brandeis assumed the chairmanship

of the Provisional Committee for Zionist Affairs, he gave the same general speech a number of times all over America, constantly emphasizing the theme of Zionism and patriotism for America. Brandeis' message was that in Judaism, were many of the values important to American democracy, and that Zionism emphasized these points.

Indeed, loyalty to America demands rather than each American Jew become a Zionist. For only through the ennobling effect of its' strivings, can we develop the best that is in us and give to this country the full benefit of our great inheritance.⁴⁹

Not only did Brandeis show how the Zionist ideology coincided with the American national ideology, he realized the important role it could play in the adjustment of the immigrant to America. He was not asking for a fund raising program to help Jews settle in Palestine. Brandeis was speaking of a Jewish renaissance that would include those items that would make his people more conscious of their culture. And thus when Jewish immigrants to America appreciated their own particular culture, they would necessarily be better Americans.

But we have also an immediate and more pressing duty in the performance of which Zionism alone seems capable of affording effective aid. We must protect America and ourselves from demoralization, which has to some extent already set in among American Jews. The cause of this demoralization is clear.

It results, in large part, from the fact that in our land of liberty all the restraints by which the Jews were protected in their Ghettos were removed and a new generation left without necessary moral and spiritual support. And is it not equally clear what the only remedy is? It is the laborious task of inculcating self-respect -- a task which can be accomplished only by restoring the ties of the Jew to the noble past of his race, and by making him realize the possibilities of a no less glorious future. The sole bulwark against demoralization is to develop in each new generation of Jews in America the sense of "noblesse oblige."

That spirit can be developed in those who regard their race as destined to live and to live with a bright future. That spirit can best be developed by actively participating in some way in furthering the ideals of the Jewish renaissance; and this can be done effectively only through furthering the Zionist movement.⁵⁰

One might assume the thrust of these ideas is toward a type of Achad Hamist view of Israel as a spiritual center of Jewish thinking. However, we shall see that Brandeis conceived of Palestine as another alternative for Jewish immigrants. Although his speeches praise Ben Yehudah and the rebirth of the spoken Hebrew language, Brandeis himself never even tried to learn Hebrew. Brandeis never uttered a word about Jewish theology, for he was interested in such ideals as democracy and equality and responsible government, and these concepts are trans-

theological. His fellow Zionists cared only that he was a Zionist, no matter what form. And his critics stubbornly viewed Zionism as "either go to Palestine, or stay in America and forget Palestine." The Chicago Tribune for example, commented in an editorial entitled "PATRIOTISM BEGINS AT HOME:"

We cannot believe the possession of territory is necessary now any more than it ever has been to preserve the noble and inspiring ideals and traditions of the Jews.⁵¹

The suggestion that Zionism as part of Judaism could be a sub-culture and a positive of race was an extension of some of the progressive thought of the times. Social workers in the settlement houses of New York were not thinking of erasing all the old world patterns of new immigrants. These ideas came from progressives like Jane Adams and William James. One of William James's disciples was a young Jewish intellectual Horace M. Kallen. Kallen was very much an advocate of cultural pluralism, and he was a life-long Zionist.

As early as 1918, he wrote in the Maccabean:

Thus we here in America are not a "melting pot." We are rather a great co-operative commonwealth of nationalities. ...Politically we are all the same and equal while their family relationships are different. It is in the kind of service nationalities render that they are different. ...Here in America mankind has a greater glimpse of what is liberty, of what

is true democracy, than in Europe.⁵²
Kallen was always a Brandeis supporter and devoted a chapter to him in his book, where he stated:

I have already indicated that Brandeis came to his ultimate conception of Zionism from that invincible humanism of his, from his fighting faith in freedom, his certainty beyond all doubt that the propositions of the Declaration of Independence are valid for all the families of mankind. Regarding Zionism too, he vindicated faith, as was his wont, by inductive reasoning from the facts.⁵³

It was a giant step forward to formulate a new image and philosophy for Zionism in America, but that step was small compared to the step necessary for implementation. There can be no doubt that Brandeis wanted a Jewish cultural revival, by means of Zionism, for America. Yet there were powerful obstacles to the realization of that revival. In accepting the position of Chairman of the Provisional Committee for Zionist Affairs, Brandeis became one of the leaders of the American Jewish community. Immediately he was challenged by the entrenched and accepted leaders of American Jewry.

B. Conflict with the American Jewish Committee

The conflict with the AJC was unavoidable for Brandeis. For the very idea of participating in American democracy through Zionism implied that the Jewish masses

would join in. The AJC, on the other hand, continued a style modified from the methods of the court Jews of Europe. They dealt in influence, and promises of loans to governments in seeking special favors for American Jews, and world Jewry. The AJC was not about to have elections and democratic procedures eliminate their power and what they considered protection of the Jewish community.

When Brandeis assumed the chairmanship of the Provisional Committee in August, 1914, one of his first official acts was to write to Louis Marshall, the President of the AJC, to inquire about creating a conference of Jews and Jewish organizations that would broadly represent the American Jewish community. Certainly, the motivations for the creation of such an organization flowed directly from Brandeis' desire to introduce democratic procedures into the culture of American Jewish life.

Marshall replied to Brandeis' letter immediately, but his answer was equivocal. Finally, in April of 1915, at a meeting of the Kehillah in New York City, Marshall spoke for the AJC:

"Invite the cooperation of the other national Jewish organizations. The American Jewish Committee has been unable to appreciate that Congress to any good can be wrought by the holding of a Congress, but on the contrary, can only behold the possibility of infinite mischief.⁵⁴

The history of the development of the American Jewish Congress and the vital part played by Brandeis is the story

of the struggle between the old guard and the Avant Guard. Brandeis wanted to ease the old guard out of office, and the AJC tried to politely hold back those whom they considered unprepared for leadership. Some have confused the issue between the Congress and the Committee as a fight over Zionism. Certainly this is true, but it was hardly the main issue.

Alvin Roth in his exhaustive analysis of the background of the American Jewish Congress comments,

The major concern of the American Jewish Committee was not that the Zionists threatened their control of American Jewish affairs. The Committee was primarily interested in keeping silent this upstart group which excited by its new-found importance, might issue rash, irresponsible, and embarrassing statements on the war, the position of European Jews, and the attitude of American Jews.⁵⁵

The history of the calling of the conference was a long and complicated one, because the Zionists waited for the American Jewish Committee to act on their suggestions. They waited until June 27, 1915, when Louis Lipsky moved that the Provisional Executive Committee "Invite the cooperation of the other national Jewish organizations" to form an American Jewish Congress to deal with international Jewish problems. Powerful members were against this proposal, men like Judah L. Magnes and Julian W. Mack. But, when Brandeis favored such action,

"Immediately thereafter, the resolution was adopted by an overwhelming majority."⁵⁶

Thus, it was that by June of 1915, Brandeis felt he could lead the American Jewish community without the aid and backing of the American Jewish Committee. At that point the AJC was on the defensive, and had to recognize Brandeis as a national Jewish leader. Furthermore, many members of the Zionist ranks were also members of the AJC. These members tried to heal the breach and arranged for a meeting between the leadership of the AJC and Brandeis. It so happened that President Louis Marshall was unable to attend those meetings for several months and Cyrus Adler acted in his stead.⁵⁷ These negotiations continued over several months. However, Adler and the committee refused to take any positive action. Finally, on August 10, 1915, Brandeis wrote to Adler:

Your refusal to permit my arguments to be presented to the full committee seems to me strong evidence that there exists in your Executive Committee that absolutistic spirit against which the proposers of a democratic congress have so earnestly protested.⁵⁸

"Absolutistic spirit" in any public affair was anathema to Brandeis. His progressive ideal caused him to work at opposite directions from the AJC. Nor was Brandeis willing to accept the compromise offered by Adler.

You state: "The Conference that we are planning is to meet in executive session, and only the results of its action are to be made known to the public through such definite authorized channels and to the extent which the Conference itself shall decide." Secrecy necessarily breeds suspicion and creates misunderstanding. Suspicion and misunderstanding have been among the greatest enemies of the Jews in the past. ...It is only through a congress convened and conducted on a democratic basis that we can expect to secure that thorough cooperation of the Jews for self-help without which they cannot be freed from existing injustice and oppression.⁵⁹

A few days later, all of the correspondence between Brandeis and Adler and the minutes of the meetings were published in a pamphlet entitled, "To the Jews of America."

The deliberations and negotiations with the AJC continued for more than a year while the AJC threatened to call a conference of their own. But this idea was abandoned in October of 1915. By October, the Committee was simply urging that the congress be delayed at least until the war was over.

But a preliminary conference was called for March, 1916, in Philadelphia. This was the first sign of success for the emerging American Jewish Congress. Even though they were attacked by the old leaders - - i.e. Marshall, Schiff, Rabbi William Rosenau, Simon Wolf, and even Ambassador Morgenthau.

Brandeis was not at the conference, but with only one dissenting vote, he was elected Honorary Chairman of the Conference and Honorary Chairman of the Executive Committee of the American Jewish Congress.

This was the program decided upon by the Congress:

1. a. That the Congress consider the question of securing to Jews free and equal rights, civil, political, religious, in all such lands where these rights were denied to them;
b. That the Congress consider the question of securing to the Jews national rights in all such lands in which national rights were or are or ought to be recognized.
2. That the Congress consider the problems of the Jewish development in Palestine in all its phases.
3. That the Congress consider cooperation with Jews in other lands, in furtherance of the Congress program.
4. That the Congress consider the question of creating a Commission which shall submit the deliberations of the Congress to the Peace Conference.
5. That the Congress consider the advisability of establishing the Congress as a permanent institution.
6. That the Congress consider the problem of our constructive relief in the lands affected by the war.
7. That the Congress consider the problems of Jewish migration in all its aspects.
8. That the Congress consider the financial responsibility which the Congress movement may create.

9. That commissions be appointed to make a survey of the condition of Jews in foreign lands and to make a study of restrictive laws.⁶⁰

As the program and the very meeting of the preliminary Congress indicates, Brandeis, in a few short years, had succeeded in challenging the major power in the American Jewish community. Although the AJC was not supplanted, they did have to share the place of leadership with the new Congress movement. And, even though the Congress was eventually called, there was one casualty; Brandeis was forced to resign his position, as I shall explain later.

After long negotiations with the AJC, a meeting was called in July, 1916, four months after the March meeting of the Congress. At that meeting, the Congress sent as one of its three representatives, the newly confirmed Justice Brandeis of the United States Supreme Court. The meeting was basically organized and run by the AJC, the Union of American Hebrew Congregations, and the UAHC's sphere of influence -- i.e. the Central Conference of American Rabbis, the National Federation of Temple Sisterhoods, and the Hebrew Union College.

At that meeting, Brandeis encountered some of his strongest public opposition by a Jewish group and he made no attempt to reconcile the estrangement. Brandeis began with a statement to the Conference, inviting them

to subscribe to the program adopted by the Philadelphia Conference [given above]. The problem with Brandeis' proposal was that of joining in with the previously established executive committee established at the Philadelphia Conference. What the AJC and the UAHC wanted was a parallel Executive capable of challenging the authority of Brandeis' Executive. Although the debate which followed was supposedly against the possibility of joining in with the Congress Executive and the second issue of the advisability of calling a Congress before the war came to an end, it was in reality only a personal affront to Brandeis.

As the New York Times reported at the time:

This Congress, Justice Brandeis said, had given its Executive Committee certain powers which did not permit of the restrictions incorporated in the resolution, and he asserted that if the members of the Conference wanted to join the Congress they would have to do so on the terms fixed by that Congress.

Rabbi Magnes took sharp exception to this statement, and he "dared" Justice Brandeis to seek endorsement of such an autocratic attitude at the hands of the Jews of the nations.

"If Mr. Justice Brandeis goes before the Jews of the country on such an issue, I predict for him as great a defeat as his reception this afternoon was overwhelming," he said.

"To come before this conference and to tell it: 'Either you come into

our organization on our terms or you cannot come into it at all' is no way to promote peace and harmony."

This brought Justice Brandeis to his feet with a statement that Dr. Magnes' tone did not indicate a desire to promote good feeling, and the latter, although insisting on his position, apologized for anything that he had said that might have sounded disrespectful or discourteous.⁶¹

Even though Brandeis was not to have his way and subsume the AJC under the control of the Congress Executive, the conference did decide to participate in the Congress meeting. Furthermore, the AJC's leadership was able to gain one other small victory over Brandeis. He had personally antagonized them, and challenged their fiery claims to authority and power. And he had become the first Jew appointed to the Court. It was insulting that he was not one of their group, and it was frustrating that they could not manipulate him. Their tiny victory was to drive him out of the public affairs of the Congress movement. Two days after the conference, on July 18, the New York Times editorialized against Brandeis' actions in the Congress movement. Adolph S. Ochs, the Publisher of the Times, was of course a member of that elite group along with Jacob Schiff and Louis Marshall, and it was as if the AJC were personally telling Brandeis, you are not so far up that we cannot deal with you. The Times stated in that editorial:

OUT OF PLACE

It has been the custom, faithfully honored by observance, for the Justices of the Supreme Court of the United States, upon taking office, to withdraw from many activities of a political or social nature, in which as private citizens they were free to engage, in order, not only that they might give their whole time and attention to official duty, but further to avoid all controversies or commitments which might seem in any degree to affect their judicial impartiality of mind.

Justice Brandeis, we are sure, was not conscious that there was any impropriety in his appearing at the conference of representatives of many Jewish organizations in this city on Sunday, where he presented a statement or report upon measures to be taken concerning the Jewish Congress soon to be held in Philadelphia. Mr. Brandeis' statement, however, became the subject of a somewhat heated controversy, in which his views, according to the reports, were "sharply opposed" by others who took part in the conference. There was marked difference of opinion among organization representatives present, inasmuch that Mr. Louis Marshall, Chairman of the meeting, found it necessary to suggest, "that no personalities be indulged in."

In this running debate Justice Brandeis stood by his guns with the courage and ability which he is known to possess. But it was evident that a good deal of feeling was aroused, and altogether a general impression will be, we fear, that Justice Brandeis might with very great propriety have avoided taking part in such a controversy. Now that he has discharged his duty as a member of the committee appointed by the

Jewish Congress organization, we venture to express the hope that he will consider that he is discharged of further obligation and will in future leave to others subjects of such controversial nature.⁶²

A few days after the Times article appeared, Brandeis resigned from The Jewish Congress Organization and the Jewish Relief Organization. His ostensible reason was that the Supreme Court would be occupying most of his time. However, in view of the fact that Brandeis continued his interests in Jewish affairs in the years that followed, it would appear that it was not the demands of his position on the Court that forced him to resign. Rather, it was the public criticism he received at the hands of the American Jewish Establishment at the Hotel Astor meeting. The Times editorial seems to have been decisive in prompting Brandeis to step down.

In the limited investigation of a few short years it seems that Brandeis had failed in one of his major goals for American Jews, that is to bring democracy to their national organizations. This view would characterize Brandeis as the man who tried to defeat the Establishment, [the AJC], but who was foiled in his attempt to reduce its oligarchical role. Not only had he failed, but he was driven out of the very organization that he had fostered. And the Congress was forced to cancel its planned wartime meeting until after the Armistice in response to the

pressure of the AJC.

However, when the Congress movement is evaluated from a larger time perspective, its intent was by no means emasculated. During the next decade the AJC lost much of their influence. Furthermore, Brandeis had shown that the establishment could be challenged, and that it did not have a monopoly of leadership talent.

It is also interesting to note the concern of the AJC and even President Wilson almost a year after Brandeis' resignation from the movement. As I shall show in the next chapter, Brandeis was involved in the decision to issue the Balfour Declaration. But Brandeis was not the only Jewish leader involved with decisions in American foreign policy. Henry Morgenthau, Sr. was a respected member of the American Jewish Committee, and close to President Wilson (in that he had served as U. S. Ambassador to Turkey). The Jewish Congress movement had come to a standstill after America became a belligerent in the War. Yet Morgenthau was able to persuade President Wilson to personally intervene to prevent the calling of a Jewish Congress.

Morgenthau advised Lansing (Secretary of State) that he suggest to Brandeis an abandonment of the proposed American Jewish Congress scheduled for September. Morgenthau feared that such a Congress would pass resolutions denouncing the Turks for atrocities and thus jeopardize his efforts to negotiate a separate peace. Aware of the

suspicion with which Zionists regarded him he forewarned Lansing, "But kindly do not mention to him that you are doing this at my instigation." Wilson seconded Morgenthau's efforts. Following an interview with the President, Rabbi Stephen S. Wise was authorized to issue a statement that a temporary postponement of the American Jewish Congress might be necessary "because of the urgency at this time of the public business." The phrase covered Wilson's opposition to the Congress which could not be made more explicit, without publicizing the details of the Morgenthau plan.⁶³

This incident only indicates to some degree the concern on the part of the AJC. Brandeis had frightened them, and they continued to be cautious of his ability.

C. Brandeis' Economic Theory for Zionism

Thus far I have investigated Brandeis' general theory of Zionism and the importance of making Zionist compatible with loyalty to the United States. I have also shown how he attempted to apply democratic standards and the principles of a representative government to Jewish leadership in America. I will now briefly turn to Brandeis' efforts at developing an economic theory for Zionism. Since no serious economic plan for Zionism can be understood without regard to the economic life of the Jews living and those planning to live in Palestine, to that end Brandeis had a very broad plan. For his economic

plan concerned life in Palestine and financial planning for the World Zionist Organization.

It would be very difficult to understand the force of this economic plan in the context of this chapter alone. I prefer to place this economic insight in its historical context, after World War I. However, it would not be accurate to describe Brandeis as a Zionist thinker without some mention of the role economics played in his thinking.

Brandeis was a theoretician for a capitalism that was developing beyond the stages of a capitalism that had become stagnant. Brandeis was committed to the free market, and to the little man. But he was ever seeking efficiency, and organizational structures that increased efficiency. Thus, after a short visit to Palestine in 1919, he suggested some reorganizational procedures for Palestine and for the World Zionist Organization. His plan called for innovative minds, and Brandeis did not care if such persons were previously associated with the Zionist cause. He suggested a tight and structured system of raising and spending funds.

All of these suggestions brought him into conflict with the old European Zionist leaders, such as Chaim Weizmann. For his suggestions had the effect of asking for the removal of committed Zionists, but inefficient leaders. Unfortunately for Brandeis, and for the Zionist

movement, these ideas were not carefully presented to the Zionist leadership. Consequently, his plan was rejected by the delegates to the London Conference of 1920.

I shall turn to his economic theory in greater detail in Chapter Four, and I shall clearly spell out the implications of his plan which was called the Zeeland Memorandon. So named because Brandeis returned home aboard the Zeeland, and took that opportunity to carefully write out his proposal.

D. Summary

Historians of Zionist thinking usually do not mention Brandeis, while historians of the Zionist movement give him honorable mention. In fact, historians of Judaism like to remind the reader that Brandeis's contribution to Zionism was mainly in the fact that he was a Jew on the Supreme Court who was committed to other Jews. Unfortunately, all of these historians tend to discount Brandeis' intellectual role. But his significance cannot be underestimated. For Brandeis unravelled the sticky problem of "dual loyalty" for the American Zionists and set the stage for the strongest Zionist movement in the world to develop -- and to develop in an atmosphere free of opposition. Though Jews from time to time saw fit to reaffirm their patriotism and their loyalty to America, no official in the Government since then has ever questioned the loyalty of American

Jews professing the Zionist cause.

Brandeis certainly was not a Jew steeped in the tradition of his people, but he was a thinker capable of abstracting the principles of Judaism that were guiding lights for the Jews of his time. Though the American Jewish Committee succeeded in forestalling the meeting of the American Jewish Congress until after the War, and forced Brandeis from public Jewish activities, nevertheless, Brandeis was able to see the Zionist Organization of America publish a set of resolutions on Palestine.⁶⁴ Many of the resolutions reflect the enlightened and liberal view that Brandeis wanted to establish in society, "Political and Civil equality of race, sex, and faith." The control of natural resources and especially utilities was always a concern of Brandeis and this aspect of his thinking has been incorporated in the policy of contemporary Israel. The resolution further called for a fiscal policy to protect people from land speculation and other forms of financial oppression, always a key concern of Brandeis.

Had the Zeeland Memorandum been adopted, Brandeis would have won his place in the pantheon of Zionist thinkers. But historical circumstances and the clash of personalities destined the Zeeland Memorandum to the footnotes and appendices of historians. In retrospect, some admire Brandeis for his idealism, and others admire

him for his insight into difficult problems. But few mention that he knew what the economy of Palestine needed in a time when the politics of Zionism was more important than its content.

It is as though Jews would soon have a land of their own and would be recognized as a nation in the family of nations, under the mandate of Great Britain. It is not surprising therefore that the history of the issuance of the Balfour Declaration has undergone a reconstruction that blurs the possibility of understanding what actually happened.

Many writers have suggested that the declaration came about because the British government wanted to reward Chaim Weizmann for his discovery of the chemical process for synthesizing oil. And on the American side of the Atlantic, historians have suggested that since Justice Brandeis was a leader of the movement, and because he was friendly with President Wilson, he urged the president to urge the British to issue the Balfour Declaration. For example, Arthur Schlesinger writes:

Perhaps the most important factor that Brandeis rendered as influence during those years was his significant work in Washington during the negotiations that preceded the issuing of the Balfour Declaration in 1917.³³

The naive notion that the British were rewarding Weizmann for scientific achievement has been perpetuated by Weizmann himself. He wrote of his role in the Balfour Declaration:

CHAPTER THREE

BRANDEIS AND THE BALFOUR DECLARATION

To most of the Jews of the world, the November 2, 1917, letter from Arthur James Balfour to Lord Rothschild seemed to promise that the goal of Zionism was near at hand. It seemed as though Jews would soon have a land of their own and would be recognized as a nation in the family of nations, under the mandate of Great Britain. It is not surprising therefore that the history of the issuance of the Balfour Declaration has undergone a romanticization that blurs the possibility of understanding what actually happened.

Many writers have suggested that the declaration came about because the British government wanted to reward Chaim Weizmann for his discovery of the chemical product acetone. And on the American side of the Atlantic, historians have suggested that since Justice Brandeis was a leading Zionist, and because he was friendly with President Wilson, he urged the president to urge the British to issue the Balfour Declaration. For example, Arthur Hertzberg writes:

Perhaps the most important service that Brandeis rendered to Zionism during those years was his significant work in Washington during the negotiations that preceded the issuing of the Balfour Declaration in 1917.⁶⁵

The naive notion that the British were rewarding Weizmann for scientific achievement has been repudiated by Weizmann himself. He himself points to the delicate

negotiations and the trying setback that he faced in dealing with the British War Cabinet. As for Brandeis, he never saw fit to set down for historians exactly what his role was in the negotiations. All we have is the correspondence that has survived.

However, because so many events centered around the White House, governmental documents are critical for understanding why President Wilson at first opposed the issuing of the Balfour Declaration and then changed his mind. Since speculation has been rife among historians, I shall set down some of the prevailing opinions.

Richard Ned Lebow summarizes the major viewpoints in his valuable article "Woodrow Wilson and the Balfour Declaration;" He States as follows:

"Selig Adler,⁶⁶ the first scholar to investigate the problem systematically, comes to the conclusion that the leaders of American Zionism were significantly instrumental in securing the President's approval. He believes that Louis Brandeis spoke to Wilson sometime during the month between the two British inquiries, and was responsible for the President's change in attitude. Adler also thinks that Colonel House was anti-Semitic and therefore an opponent of Zionism.

"Leonard Stein,⁶⁷ takes issue with these conclusions. He agrees that Brandeis and the Zionists played important roles but doubts that Brandeis intervened directly with

Wilson. Instead, Stein asserts, Brandeis spoke to Colonel House and changed House' attitude toward Zionism, after which House prompted President Wilson to approve the British declaration.

The third and most recent study, by Rabbi Herbert Parzen,⁶⁸ advances the view that Colonel House was always favorably disposed toward Zionism and deserves the credit for convincing a reluctant Wilson to agree to the British proposal. He believes that the role of the Zionists, and of Brandeis in particular, has been over estimated, precisely because they remained so inactive in the month when the fate of Zionism hung in the balance. He points out that, although Brandeis knew of Wilson's unfavorable response to the September request, he made no effort to discuss the matter with the President.

Lebow himself has carefully reviewed these events and concludes that Brandeis played a very minimal role in influencing President Wilson. He states:

The head usher at the White House kept a daily appointment book in which all visitors to the White House were registered, as well as all appointments with the President and their duration. There is no indication that Brandeis visited the President during the period in question. The month prior to Wilson's decision to support the declaration. Wilson, however, did have luncheon with the Supreme Court on October 1, (1917) and it is probable that Brandeis attended. But the luncheon took place after he (Brandeis) had dispatched his cable to Weizmann, telling him that

the President was in agreement with the declaration, and therefore the luncheon could not be the meeting Adler suggests Brandeis was referring to.

The only other possibility is that Brandeis met Wilson at some function outside the White House or spoke to the President over the telephone, but there is no evidence for this.⁶⁹

Thus, it is quite clear that Brandeis did not spend much of 1917, talking with and urging President Wilson to support the Balfour Declaration. This is confusing to scholars because it is quite clear that in England, Weizmann was exerting every effort to persuade each official in the War Cabinet of the correctness and need for the Balfour Declaration. Brandeis' passivity, by contrast, confronts us with an enigma. The paradox is between Brandeis the energetic Zionist leader, and the Brandeis who didn't ever exert himself to press President Wilson for an early decision in favor of the declaration.

However, it has been the contention of this thesis that Brandeis was an idealist and a man of high principle. Thus it might be supposed that he compromised his Zionism for his American patriotism. I intend to demonstrate that Brandeis acted immediately in urging the issuance of the declaration and when conflicts arose in the diplomatic arena, he simply waited until the moment was opportune to again suggest that Zionism and American foreign policy were seeking the same goal.

I intend to show that since Brandeis was a close friend and advisor to the President, he was able to evaluate the Balfour Declaration from the point of view of American foreign policy and only then as a Zionist.

Scholars hitherto have erred in not recognizing that Brandeis was deeply involved in the Wilson Administration in its thinking, and in its problems. Wilson never considered Brandeis simply as a representative of American Jews. To understand Brandeis' actions, one must view the Balfour Declaration, not as the redemption of the Jewish people but, as an instrument of the foreign policy of Great Britain.

A. The Balfour Declaration and British Foreign Policy.

It certainly ought to be clear to us now that the Balfour Declaration did not develop in a vacuum nor was it formulated as a humanitarian effort to save persecuted Jews. Actually, the British had long been thinking about the Middle East and the lands governed by Turkey. Britain had long been concerned with drawing under her hegemony vital areas in the Middle East.

Roger Herst has clearly set the declaration in its proper context. He comments:

...it was highly irregular, at the time, for the British Government to declare such an intention with respect to the "Jewish people"

because 1) General Allenby's conquest of Palestine was not then completed (he entered Jerusalem on December 8, 1917) and 2) many of the "Jewish people" to whom this Declaration was addressed, lived in and fought for the Central Powers. The question, therefore, is why was the Balfour Declaration issued and what part did it play in the overall plans for British imperialism in the Middle East?⁷⁰

The question is a good one, and the facts clearly indicate that Britain had been deeply involved in the division of the Ottoman Empire long before the Balfour Declaration. For the British had already negotiated the Sykes-Picot Agreement, Hussein-McMahon, and the Petrograd Constantinople Agreements all of which had divided the Middle East in different ways. Yet the constant theme in these agreements was that Great Britain would soon have secure control over significant territories in the Middle East. Roger Herst⁷¹ convincingly suggests that England needed Anglo-Saxons, or at least Europeans to colonize their anticipated ~~salient~~ in Palestine. The land was unattractive to settlers; hence the chance of getting the same kinds of immigrants for Palestine as for Australia, Canada, and New Zealand were slight. The Jews were ideal colonizers because they were willing to go to Palestine, they were westernized, and they were likely to remain loyal to England. With a pro-English settlement in Palestine, England would be able to protect effectively the exposed flank of the Suez Canal.

Certainly Weizmann and Herbert Samuel were aware that the Balfour Declaration was no mere philanthropic act. For Weizmann the opportunity of combining the interests of England with that of the Zionists was a happy conjuncture. And he had every reason to believe that an identity of interest would prevail. The "sincerity" of English intentions was revealed when they altered their foreign policy and reversed the meaning of the Balfour Declaration, at a time when Jews most needed a homeland.

If one understands the Balfour Declaration as an integral part of the British foreign policy for World War I, then one must ask if those goals were the same for the United States.

B. An Hypothesis for Understanding Brandeis' Role in the Balfour Declaration.

The scholars research seems to reveal that Brandeis did very little to convince President Wilson that the Balfour Declaration deserved U. S. support, but no scholar has suggested that perhaps Brandeis was caught in a ticklish dilemma: was his loyalty to Zionism in conflict with his loyalty to the foreign policy of the United States.

It seems that this possibility was overlooked by all scholars seeking to make intelligible the relationship of the Balfour Declaration. For all have assumed that since Brandeis was a leader in American Zionism, he must have supported the Declaration and must have done everything

possible to secure President Wilson's support for that document. And in that the records are lean they have assumed either that Brandeis was very busy with the Supreme Court or that he must have had some secret conversations with the President of which there are no records.

The hypothesis that would seem to resolve the dilemma is that Brandeis did in fact support the Balfour Declaration, that President Wilson was aware that Brandeis wanted to secure the President's support, but that something or things slowed this process. I intend to demonstrate that President Wilson was for a time developing a foreign policy that was in conflict with the British. This plan deterred final presidential approval. Yet, when Wilson abandoned this approach he was ready to support the Declaration.

My method has been to follow a week by week record of the events and the comments of the various personalities. However, quite by coincidence, I was able to find documents relating to other considerations of President Wilson during the same weeks that he was being urged to support the Balfour Declaration. I intend to show that President Wilson was attempting to negotiate a separate peace with Turkey during the same weeks that he seemed indecisive about supporting the Declaration. And I will show that it was only when the attempt to persuade

Turkey to drop out of the war failed, that he supported the Balfour Declaration. Furthermore, I shall show the part that Brandeis played in the futile attempt to see Turkey negotiate a separate peace.

C. Brandeis' Participation in the Events of the Balfour Declaration.

In the month of April, 1917, certain events occurred which began the gradual movement on the part of the British War Cabinet to issue a declaration in favor of establishing a Jewish homeland in Palestine. On April 2nd, the United States declared war, and became an ally of Britain, France, and Russia. On April 6th, Chaim Weizmann learned of the existence of the Sykes-Picot agreement and its implications for Palestine. Later in the month, he sent the information to Brandeis in Washington. In that letter, he also called for American support of a British protectorate:

It is most certainly necessary in the interests of Zionism that America should support the plan for a British protectorate which is the only guarantee for a future healthy Jewish development in Palestine.⁷²

Brandeis wasted little time with this urgent message. For in less than two weeks he had an appointment with President Wilson on May 6th. De Haas recorded Brandeis' impressions:

The interview lasted three quarters of an hour, in the course of which Brandeis explained to the President the general Zionist policy ... and the difficulties involved in the settlement of the Zionist question in Palestine as between French and English policy.

(Brandeis must have known of the secret Sykes-Picot agreement.)

The president answered him that he was entirely sympathetic to the aims of the Zionist movement, and that he believed the Zionist formula, to establish a publicly assured, legally secured homeland for the Jewish people, would meet the situation...that the President would at the proper time make a statement but that he would first bear in mind the situation arising in France, and would exercise his influence in that direction, and that only thereafter would he consider making his views, and that his utterances under that heading would be drafted by Brandeis. Furthermore, the President expressed himself in agreement with the policy, under England's protectorate, for a Jewish homeland.⁷³

That same day Brandeis wired Weizmann his support of the Weizmann plan, but he asked that his support not be published at the time.⁷⁴ The next day, May 7th, Brandeis had his first meeting with Lord Balfour, and he met again with Balfour on the 11th.

During the same time that Balfour was meeting Washington policy makers, including Brandeis, Balfour had a conversation with Colonel House in which he revealed the various secret agreements with France and Russia to partition the Turkish empire.⁷⁵ He also discussed with

House his feelings on a separate peace with Turkey. And on May 13, the Colonel reported to the President that Balfour had agreed that "...if Turkey...were willing to break away from Germany...certain concessions should be made to them."⁷⁶

This was a serious mistake on Balfour's part, for he assumed that Wilson only wanted him to say that he wanted that separate peace. He thought Wilson could not be serious. or have a plan. But President Wilson took Balfour seriously, and consequently Balfour and the British government had to rely on Weizmann to intervene in the secret mission to negotiate a separate peace with Turkey.

A few days after Balfour's seeming commitment to peace, a coincidence in diplomacy occurred. Henry Morgenthau, Sr. volunteered his services to negotiate a separate peace with Turkey. Morgenthau had been active in governmental circles, and had served as Ambassador to Turkey. He had resigned that post in 1916, to serve as Treasurer for the Democratic Party in the Wilson campaign for re-election. When war broke out, Morgenthau became an extremely important diplomat representing the sole "neutral power" in Turkey.

On May 16, 1917, Morgenthau called on Secretary of State, Robert Lansing, to ask what he could do for the war effort. Morgenthau felt that if the Turkish leaders

were properly approached,

...they would allow some submarines to enter the Dardanelles and destroy the German vessels, and that if this was done and the Turks relieved of their fear of the Germans, they would be willing to make peace on very favorable terms for the allies...⁷⁷

Lansing was not convinced that Morgenthau was the key to a separate peace with Turkey, but he did inform the President of the possibility the very next day.

The day after Lansing's note to President Wilson, May 18, 1917, Balfour sent the Secretary an abstract of a speech he had given in the Imperial War Council.

...the practical destruction of the Turkish Empire is undoubtedly one of the objects we (England) desire to attain...and that if successful in this objective Turkey would be...deprived of the most important portions of the Valley of the Euphrates and the Tigris; she will lose Constantinople; and Syria, Armenia and the southern part of Asia Minor will, if not annexed by the Entente Powers, probably fall more or less under their domination...⁷⁸

If Brandeis had any knowledge of these matters, he did not take them seriously at this point. He sent a note to Rothschild: "Have had satisfactory talk with Mr. Balfour also with our President. This is not for publication."⁷⁹ However, President Wilson was quite serious and had two conversations with Morgenthau in late May and early June.

Sometime in June, Wilson decided upon the Morgenthau mission to seek a separate peace with Turkey. According to Frank Manuel:

Once decided upon, the mission had to have a public cover, and for this purpose the Jewish problem in Palestine was ideal because Morgenthau was a prominent Jew and a former Ambassador to Turkey.⁸⁰

What took place in June was crucial for the possibility of a Balfour Declaration every being published. Manuel tells us that Morgenthau complained to Lansing:

The Zionists under the leadership of Brandeis, Dr. Wise and others think that the future of Palestine is primarily their concern.⁸¹

And so, according to Manuel at least, it was decided to send Felix Frankfurter in accordance with Morgenthau's wishes.⁸²

However, Manuel is mistaken, for Frankfurter was not designated by Morgenthau. In fact, Frankfurter was chosen by Brandeis, and only after strings were pulled in the White House and in the Department of State. The facts were that in May, Brandeis had the impression that Wilson and Balfour were both in favor of a Jewish homeland in Palestine. But a month later, Wilson was attempting to draw Turkey out of the war. The turn towards a separate peace, precluded the possibility of a partition of the Turkish empire and a consequent mandate for Palestine. Brandeis acted quickly, and accurately, he telegraphed

Weizmann in London. As Weizmann explains:

One morning early in June of that year (1917) I received a cable from Mr. Brandeis to the effect that an American commission was traveling to the East and that I should try to make contact with it somewhere. Who the members of the commission were, what its purpose was, to what point of the East it was traveling, and where I could establish contact, were details not mentioned.⁸³

Weizmann then goes on to state that he found out the true nature of the mission from Sykes and Ormsby-Gore. Weizmann acted quickly, and so did Brandeis, for we find that Weizmann's complaint soon was heard in Washington.

On June 14, a private and secret communication from the Foreign Office to the British Ambassador was on Lansing's desk: Armenians and Zionist Jews have called at the Foreign Office to protest against the proposed mission. From what they said, they seem to have full information as to the scope and objects of the mission. ...it appears to be wise to postpone the mission.⁸⁴

Thus Brandeis must have acted no later than the first weeks in June in order for the information to cross the Atlantic and back again in the form of a complaint to the British Foreign Office. Nor was the telegram to Weizmann Brandeis' only attempt to hinder the Morgenthau mission. And Brandeis was instrumental in having Felix Frankfurter assigned to the Morgenthau party.

Justice Brandeis, according to Professor William Yale, suggested that Professor Felix Frankfurter accompany Morgenthau on his secret mission. How the eminent jurist became aware of the secret mission is not made clear by Professor Yale, but it seems his source of information was either British Foreign Secretary Balfour, or Secretary of State Lansing, or President Wilson himself.⁸⁵

The early events of the Morgenthau mission are reported by Weizmann as scenes in a comic opera. Weizmann relates how he traveled across Spain in a special railroad coach, with Secret Service agents of the British Foreign Office, and how he landed at Gibraltar to meet Morgenthau on the 4th of July. The two groups then began to discuss the mission, in German, the language common to all concerned. Weizmann tells of the questions put to Morgenthau:

Colonel Weyl (the French representative) was particularly anxious to obtain a precise answer from Mr. Morgenthau. But Mr. Morgenthau was unable to furnish one. In fact, as the talks went on, it became embarrassingly apparent that he had merely a vague notion that he could utilize his connections in Turkey to some end or other; but on examining the question more closely, he was not justified in saying that the time had arrived for negotiations. Nor had he received definite instructions from President Wilson. In short, he seemed not to have given the matter sufficient serious consideration. I asked Mr. Morgenthau several times why he had tried to enlist the support of the Zionist Organization. To this question too, he had no clear answer.

I therefore thought it necessary to state clearly to Mr. Morgenthau that on no account should the Zionist Organization be compromised by these negotiations. When I asked Frankfurter, informally, what he was doing on this odd mission, he answered that he had come along to keep an eye on things!

At the end of the conversations, Weizmann convinced Morgenthau to delay long enough to go to Biarritz and talk with General Pershing. As far as Weizmann was concerned, the mission was aborted.

Weizmann's assumption proved correct. However, Morgenthau still hoped to negotiate with the Turks, and certainly President Wilson did not think that the mission was detoured on July 5, 1917.

Because historians have found the Morgenthau mission to be a complete failure, they have either disregarded it, or they have shown why the mission was doomed to failure. However, in the larger context of American foreign policy, and the smaller realm of the American foreign policy and the Balfour Declaration, no historian has written of the place of the Morgenthau Mission. For President Wilson seriously wanted the Mission to succeed because he wanted peace, he wanted an end to the war, and peace gestures had to have priority.

On the other hand, peace was not a priority for the English but rather victory and the fruits of that victory, British hegemony in the Middle East. Balfour had to undo

the mistake he had made in Washington of telling the President that he was in favor of a separate peace with Turkey. After Weizmann had met with Morgenthau in July, the British must have been convinced that the mission could not succeed.

And this is the point in the development of the Balfour Declaration that has confused historians. Weizmann's actions were constant, and persuasive, for he was working daily to have the British War Cabinet issue the Declaration. Weizmann's opposite number in Washington, Brandeis, did almost nothing to bring pressure for Presidential action in Washington. Thus some scholars have concluded that Brandeis was inefficient, or naive in his actions. However, Brandeis was simply waiting for Wilson to learn of the failure of the Morgenthau mission. At that point, the President would have to readjust his foreign policy aims.

The date to keep in mind is September 19, 1917, the day that Morgenthau would report to President Wilson concerning the results of his mission. The British War Cabinet was moving in another direction in September. They were seriously planning to issue the Balfour Declaration, but not before President Wilson approved of their actions. Thus, on September 3, 1917, Robert Cecil sent the following telegram to Colonel House:

We are being pressed here for a declaration of sympathy with the Zionist Movement, and I should be very grateful if you felt able to ascertain if the President favors such a declaration.⁸⁷

Wilson could hardly support the declaration until he had heard from Morgenthau, and that was some sixteen days away. It would have been useless for Brandeis to try to secure presidential approval in those two weeks. Hence Brandeis waited. In the meantime, House sent this reply:

Ajax (Wilson) has been here with me for two days and I waited for this occasion to ask him concerning your inquiry regarding the Zionist Movement. In his opinion the time is not opportune for any definite statement further perhaps than one of sympathy provided it can be made without conveying any real commitment. Things are in such a state of flux at the moment that he does not consider it advisable to go further.⁸⁸

"Things were in a state of flux" must have referred to the impending Morgenthau report.

In retrospect, it is clear that Wilson was actually in sympathy but could not say so on September 10. On September 23, after Wilson had time to think over the Morgenthau report, Wise and Brandeis met with House in New York.

House wrote in his diary:

They came to talk of the Zionist Movement. They had received a cable from Weitzman [sic] of London outlining in two paragraphs the views of the F. O. and the P.M. which they, the F. O. and P.M. were endeavoring to get the War

Council to accept. I cautioned against pressing the President for any public statement. I suggested they bring the French, Italian, and Russian governments as near the attitude of Great Britain and the United States as was possible and then leave the matter there. I confessed that the President was willing to go further than I thought adviseable, and that I had warned him against a more definite statement than the one I cabled to Cecil.⁸⁹

A great deal of conjecture has been put forth concerning the matter of who changed Wilson's mind. Was it Brandeis, or Colonel House? Much has been made of the fact that House wrote notes to President Wilson containing anti-Semitic remarks, and that House was against the Declaration, and against the partition of Turkey.

It is my hypothesis that Brandeis had clearly stated his Zionist aims to the President in May, and received Wilson's assurances. Brandeis did not have to convince Wilson again; he simply had to wait until Zionist aims coincided with the aims of Wilson's foreign policy. When Wilson realized that a separate peace with Turkey was not realistic, then the aspects of his oft-stated hope for "national determination" could be applied to Zionist hopes in Palestine and for a Balfour Declaration. The month interval between Wilson's non-support of any declaration and his support was not due to any indecision on the part of Wilson, nor any change in his attitude. After the Morgenthau report of September 19, the next move was up

to the British.

In London the War Cabinet was by no means unanimous on the Balfour Declaration. And as late as October 4, the sole Jewish member of the War Cabinet (Montagu) succeeded in having the Declaration postponed on the agenda. But finally on October 6, the text of the declaration was cabled to Wilson.

His Majesty's government views with favor the establishment in Palestine of a national home for the Jewish race and will use its best endeavors to facilitate the achievement of this.⁹⁰

Thus, on October 13, Wilson agreed to support the Declaration in a note to House:

I find in my pocket the memorandum you gave me about the Zionist Movement. I am afraid I did not say to you that I concurred in the formula suggested by the other side. I do, and would be obliged if you would let them know.⁹¹

Even though Wilson's support of the Declaration was secret, it was the key that unlocked the Declaration. The British were waiting for Wilson's support, for they felt that they could not proceed against American wishes. Wilson delayed a public announcement for another year until August 31, 1918, when it was published in a letter to the Jewish community wishing them a Happy New Year in the Zionist magazine Menorah Journal. Wilson could have hardly acted any differently since the United States had

not declared war on Turkey.

Wilson's support of the Balfour Declaration was an extremely important element in the British decision. And Brandeis' contribution was three fold, he urged Zionist views on the President, he warned Weizmann of the coming Morgenthau mission, and he included Frankfurter in the party to protect the aims of the Zionists.

CHAPTER FOUR

THE ECONOMIC BASIS FOR THE WEIZMANN-BRANDEIS CONFLICT

Introduction

The Balfour Declaration was the major turning point in Zionist actions and planning. And with the Allied victory in Europe, the reality of a Jewish homeland in Palestine only awaited on the peace treaties. There was no unanimity on this issue either on the part of diplomats or on the part of Jewish representatives in Paris. Yet, with all the bickering, and disagreements, on April 26, 1920, at San Remo, the British were awarded a mandate over Palestine.

Yet even before the San Remo decision, the disagreements and fighting had begun among the Zionists. The battle lines were drawn between the Zionists who supported Brandeis and those who supported Weizmann. The arguing lasted almost three years, and culminated in the resignation from the leadership of the Zionist Organization, of many of the outstanding American leaders -- Stephen S. Wise, Julian W. Mack, Abba Hillel Silver, and Louis D. Brandeis.

The independent observer might well ask if this was a clash of personalities or a struggle for power, or a fight over program. Clearly it was all of these factors. Yet, the historian must rely on obviously one-sided accounts on the part of Weizmann himself, and on Brandeis' biographer,

Jacob de Haas. The conflict took place on both sides of the Atlantic and at a series of meetings. The conflict was considerably broadened when Weizmann decided to travel to America and to challenge Brandeis in his own local organization.

1. Events in London

Brandeis made three separate trips to London, two in 1919, and one in 1920. After the war, he travelled to England and stayed only a few days before he sailed for Palestine to make a two week investigation of conditions there, and then he returned to England to discuss the matters with Weizmann again. The third meeting occurred after the San Remo conference as the new plans for Zionism were being considered. And it was at this third and final meeting that Weizmann indicated that he would go to America to challenge Brandeis' plan.

A. The Conflict in London according to Weizmann

Weizmann's first lengthy description of Brandeis, in Trial and Error, lends itself to the notion that the conflict was a conflict of personalities.

Justice Brandeis has often been compared with Abraham Lincoln, and indeed they had much in common besides clean-chiseled features and lofty brows. Brandeis, too, was a Puritan: Upright, austere, of scrupulous honesty and impeccable logic. These qualities sometimes made him hard to work with; like Wilson he was apt to

evolve theories, based on the highest principles, from his inner consciousness, and then expect the facts to fit in with them. If the facts failed to oblige, so much the worse for the facts. Indeed, the conflicts which developed between Brandeis and ourselves were not unlike those which disturbed Wilson's relations with his European colleagues when he first had to work closely with them.⁹²

Weizmann goes on to state that Brandeis left for Palestine for a two week tour, and that he told Brandeis that two weeks was not enough time to understand adequately the Jewish problems in Palestine. Weizmann felt that even if his theories were correct they squared badly with realities. He goes on to comment on Brandeis' return to London after the two week visit.

He was for instance definitely of the opinion that unless a large-scale "sanitation" of the country were first undertaken, it would be wrong to encourage immigration. He supposed that the Government's first act would be to drain the marshes, clear the swamps, build new roads, not realizing that no one in authority had the slightest intention of starting these operations. He repeatedly stated -- this was thirty years ago -- that Zionist political work had come to a close, that nothing remained but the economic task. These views pointed to a coming conflict between Brandeis and myself, as also between the majority of European Zionists and a powerful group of our American friends.⁹³

As we shall see, de Haas gives greater detail to these events. Nevertheless, it is clear that Weizmann was antagonistic to Brandeis' economic plan. After San Remo (April, 1920) Brandeis returned to London in July to discuss the meaning of the Mandate for Zionism. This is Weizmann's account:

With a number of my European colleagues I felt that we should lose no time in approaching the great Jewish organizations which might wish to share in the practical work in Palestine, with a view to the creation of some kind of Jewish council. This was the idea which eventually developed into the Jewish Agency. To the American leaders -- for convenience I shall, in this connection, speak hereafter of the Brandeis group -- it seemed unnecessary to have any kind of double organization: it was their view that people who wished to co-operate in the work of rebuilding the Jewish National Home could join the Zionist Organization.

This was not merely a difference in formal approach; it represented a real cleavage. The Brandeis group envisaged the Zionist Organization as henceforth a purely economic body. Since, in their view, it had lost its political character by having fulfilled its political function, there was no longer any reason why non-Zionists who were prepared to help in the economic upbuilding of Palestine, but who were not prepared to subscribe to political Zionism, should refuse to become members. But our reason for wishing to keep the Zionist Organization in being as a separate body was precisely the conviction that the political work was far from finished; the Balfour Declaration and the San Remo decision were

the beginning of a new era in the political struggle, and the Zionist Organization was our instrument of political action. There were numbers of Jewish organizations and individuals which, with all their readiness to lend a hand in the practical work in Palestine, insisted that they would not be implicated in any of our political difficulties. Their attitude might be illogical, but there it was, and it had to be reckoned with. The question was, then, whether a new organization should be formed for the accommodation of the non-Zionists, or whether the Zionist Organization should be completely reorientated, should, in fact, give up completely its political character.

5. A complicated and sometimes acrimonious discussion developed round this subject; the proposal of the Brandeis group was defeated by a substantial majority.

A second controversial point was the budget. The European group set this at something in the neighborhood of two million pounds a year, to which they had to admit that they themselves could contribute very little. The Americans generally -- and not only the Brandeis group -- were shocked by this "astronomical" figure, and asserted they could not guarantee more than one hundred thousand pounds a year. Mr. Brandeis contended that this was the utmost that could be got from American Jewry -- and this at a time when it was well known that American Jews had acquired and were acquiring considerable wealth.

I found myself explaining that we could not possibly adopt a budget of that order; it was not merely inadequate to the task which faced us, it was derisory: it would damn

us in the eyes of friends and enemies alike. I added that if this was all he could find in America, I should have to come over and try for myself. ...

To return to the London Conference: toward its close it elected officers to conduct the affairs of the moment until the first postwar Congress should be able to meet; Justice Brandeis became Honorary President, I became President of the Organization, and Mr. Sokolow became chairman of the Executive. Together with the Actions Committee which was then elected, and which met in July, we appointed as departmental heads Mr. Ussishkin, Mr. Julius Simon (representing America) and Mr. Nehemiah de Lieme, of Holland.⁹⁴

B. The events of the conflict according to pro-
Brandeis sources.

In Jacob de Haas's account of the developing conflict, he does not mention any argument between Weizmann and Brandeis when the latter arrived in London on their way to Palestine. de Haas asserts that Brandeis "became a lover of its historic soil, but in spite of all the receptions tendered him, he never uttered a word in public while in the country."⁹⁵ It will be remembered that Brandeis originally attained notoriety in America by pointing out inefficient business practices. So too in Palestine: "The multiple headed Zionist Commission with offices both in Jerusalem and Tel Aviv was too large and therefore inefficient. In part, he remedied this while still in the country by forcing the transfer of all Zionist officers from Tel Aviv to Jerusalem."⁹⁶

This is the account of what happened when de Haas and Brandeis returned to London to meet with Weizmann again:

He immediately advocated the abolition of the Zionist Commission in Palestine and its replacement by the concentration of all Zionist officers there. This demand and this criticism of much that he had seen in Palestine was disturbing to Dr. Weizmann and his associates. They were not prepared for the definite and categorical methods suggested by the American leader. They propounded many plans for fund raising of which he disapproved and he insisted upon an assumption of responsibility by the Zionist Organization for the development of Palestine which seriously distressed the Europeans who were leaning on England for practical support, and whose belief in the "American idea" had weakened during the endless negotiations over the terms of the mandate.⁹⁷

Although de Haas does not elaborate on the points, Horace Kallen does.⁹⁸

To insure in the Jewish national home in Palestine equality of opportunity, we favour a policy which with due regard to existing rights shall tend to establish the ownership and control of the land and of all natural resources, and of all public utilities by the whole people.

All land owned or controlled by the whole people, should be leased on such conditions as will insure the fullest opportunity for development and continuity of possession.

Thus de Haas tells us:

The first clash came during a discussion over the land policy, as outlined in the mandate. Brandeis insisted on the application of the principle of the Pittsburg Program as basically fair to the Jews and to the Arab holders. He won his point. But he parted company with Dr. Weizmann on the clause that involved the creation of the Jewish Agency.⁹⁹

It must be noted that this reoccurring pattern of thought continually recurs in Brandeis' position i.e. he frequently found himself discussing the organization of groups and then arguing for their re-organization. And, thus, in less than ten years he had challenged the power position of the leaders of the Jewish community on both sides of the Atlantic.

Dr. Weizmann was willing to compromise the authority of the Zionist Organization in the up-building of Palestine by including non-Zionists in the Jewish Agency as it was then formulated. He was willing to include among the Zionist forces, the National Jewish Councils hastily formed in Poland and Eastern Europe towards the end of the war, besides seeking the support of the avowedly non-Zionist philanthropic agencies.

Brandeis urged that the supporters of these National Councils, which were political organizations aiming to sustain the claims of Jews to minority rights, should become "Shekel payers" and thus join the Zionist Organization. He rejected Weizmann's plan because he did not regard these National Councils as

permanent contributions to organized Jewish life. Furthermore while Brandeis agreed that anyone could contribute to the upbuilding of the Jewish homeland, he held that the responsibility for the actual operations could only be assumed by those who believed in the principles involved, and therefore could be single-minded in their devotion to an onerous task.

The majority of the Committee sided with Brandeis but Weizmann elected to regard the decision as "another Uganda" and severely upbraided those of his intimate associates who voted with the American group in the Committee.

The issue was largely academic but Weizmann made it intensely personal by insisting that only he and his friends were stirred by Jewish national consciousness whilst those opposed to his plans were lacking in historic understanding of Jewish life and wanting in Jewish soul. That is why he forced from Brandeis an answer in "principle" as well as in "practice."

This controversy called out the full strength of Brandeis' non-compromising spirit. In cold measured tones he answered, "I am opposed to your plan both in principle and in practice."¹⁰⁰

The gap between the two leaders had become wider. Brandeis returned to America to report on his visit to Palestine and to urge a campaign against malaria (which he called sanitation), an increased purchase of lands, afforestation, the Hebrew University, and studies about the land, its agriculture and the possibilities for industrial and commercial development.¹⁰¹ (And then in 1920,

riots broke out between Jews and Arabs in Palestine. It was supposed that this would be remedied by a stronger British military position in Palestine when the Mandate for Palestine was given at San Remo in April of that year.) And thus the London Zionist Conference began with riots, San Remo, the War, and the appointment of Herbert Samuels as the first British High Commissioner of Palestine fresh in the minds of the delegates. Brandeis and his American associates found the conference poorly planned, with numerous delegates who would not adhere to any unified plan. de Haas reported, "The typical European rationalization was avoided and no attempt was made to distinguish between the three prevailing nationalist ideas--political Zionism, cultural Zionism and national autonomy in European lands."¹⁰² Of course, Brandeis arrived with a reorganization plan. Weizmann invited Brandeis to meet with Lord Reading, who was Lord Chief Justice, a leading English Jew but a non-Zionist. The re-organization meant inviting non-Zionists into the leadership structure of the Zionist Organization. Thus, Lord Reading and two other leading English Jews (and Zionists, but not part of the Organization) Sir Alfred Mond and James de Rothschild would lead the Organization along with Weizmann and Sokolow. As for the financial aspects, they were to be directly responsible, and the Organization would have retained some control when such bodies reported to the Congress, and founders of these

corporations could exercise control in voting according to the share they held.

de Haas tells us:

When the Seniorens Convent (steering Committee) adjourned that day the fate of the plan was much in doubt, for the ramifications and possibilities of the project were just beginning to appeal. Thereupon without notice to Brandeis, who as is his habit, had retired at an early hour, Dr. Weizmann killed the plan by a simple act. The same evening he called Sir Alfred Mond and Mr. de Rothschild into conference with a few of his associates, and submitted to them organization problems which were in no way comprehended in the Reading-Brandeis draft. Sir Alfred Mond and Mr. de Rothschild naturally withdrew from the whole project. They had abstained from active affiliation with the Zionist Organization because they had no liking for involved organization politics and they did not propose to be led into its mazes via the new economic body. The possibility of obtaining their support was spread among the delegates even before Brandeis appeared on the scene the next morning. So the Reading-Brandeis plan died, with an open breach between Dr. Weizmann and Brandeis.¹⁰³

With the Brandeis re-organization plan out of the way, Weizmann came forward with the proposal for the Palestine Foundation Fund (Keren Haysod). This would be a fund for all money collected by Zionist efforts for schools, power plants, educational work outside of Palestine, and for the administrative expenses of the Zionist Organization leaders. The Americans voted against this plan, knowing

that they would have to pay the major share of the cost. However, the rest of the convention voted to approve the plan.

C. Analysis

It is quite clear that there could be no unity in the ranks of Zionism as long as these two men disagreed on plan. Both Weizmann and Brandeis had the same two options to decide upon. Either they could try to compromise their views for the greater unity of the Zionist movement, or they could bring their disagreements to a test by refusing to compromise their views. As we shall see, both the Weizmann faction and the Brandeis faction made some attempts at reconciliation after the London conference, but these attempts failed and led to a final public fight between the opposing forces which culminated in a Weizmann victory.

Students of the conflict have laid undue emphasis on the conflict of personalities. The notion of a "Pinsk versus Washington" implies the clash of cultures and an inability to communicate. It seems to me that this aspect of the conflict was important but not crucial. I shall return to this discussion of personalities at the end of this chapter. However, it is important at this stage to question how serious a role personal antagonisms played in the break between Weizmann and Brandeis. For anyone who adheres to the "personality theory" must explain why

Brandeis, who supposedly disliked Weizmann, and who was defeated by Weizmann's action behind the scenes, continued to deal with Weizmann. The fact remains that Brandeis stayed on after the London Conference to discuss policy and its implementation with Weizmann. Even de Haas, who clearly disliked Weizmann, stated:

The personal breach did not prevent his standing loyally by the organization. Twice during his stay in London (after the close of the conference) he authorized the American Zionist treasury to advance funds to London to meet pressing needs.¹⁰⁴

Thus, one must ask if the "personality clash" was so serious, why did Brandeis remain in London at all? Brandeis should have returned to America to prepare the next stage of the battle.

In my estimation, the real conflict in London was the disagreement on an economic plan. Weizmann proposed an outmoded method of charity, sloppy administration and accounting, and entrenched loyalties to old timers in the Zionist Organization. Brandeis was arguing for an emergent capitalism, an organized administration and accounting, and a clearly defined distinction between charity and investment.

Brandeis may have felt that he had not made his plan as understandable as he had intended at that meeting. As a result, he wrote a very detailed explanation of his program during his trip to America. This proposal was

called the Zeeland Memorandum (named for the ship on which it was written). The Zeeland Memorandum is a key document for understanding the essentials of Brandeis' economic thinking. For Brandeis left London knowing that he had not persuaded the English Zionists in his economic conceptions. I have already mentioned, in Chapter Two, that one of Brandeis' major innovations in Zionism was encouraging the development of capitalism in Palestine. From my study of the Brandeis-Weizmann conflict, it seems to me that Brandeis' economic plan was the basis of the disagreement. For the direct implication of the Brandeis plan would have been a change in the power structure of the Zionist Organization.

D. Brandeis' economics

Brandeis wrote the Zeeland Memorandum with the full understanding of the dishonesty and corruption possible in large corporations and industries. However, Brandeis was not going to give up on capitalism simply because of misuses of the system by some industrial giants. For Brandeis was aware of the positive features that capitalism provided; he believed in the free market. And at least in economic terms, Brandeis was following in the footsteps of Herzl.

Although the Socialists were later to have their way, Brandeis did propose a viable economic system for Palestine. In his early suggestions, not only is there a wide area for

the private entrepreneur but a realization of the need for private investment of capital in Palestine, a problem that still plagues the State of Israel.

In the Zeeland Memorandum¹⁰⁴ he outlined eleven areas for consideration: Objective, difficulties, how shall money be raised, self-supporting population, immigration, Palestine National Loan, funds, application of funds, instrumentalities, reorganization, and cooperation.

The objective, of course, was to take advantage of the Balfour Declaration and to settle Jews in Palestine. The special difficulties were four: (1) the land had to be purchased, (2) the land had to be developed because it was unliveable, (3) the natural resources were few, (4) and the overall situation discouraged investors.

Brandeis asked how the money could be raised, since he knew that capitalists would not be interested in such risky adventures. His alternative was for Jews to raise the necessary funds to administer them. (In the end these funds would purchase land, public utilities, and be used for afforestation.) However, Brandeis was not interested in the rates of interest with these first monies, for the money would be used for purchases. At that time the Jewish Colonial Trust and the Anglo-Palestine Company were in financial difficulties. In advocating that they received increased funding, Brandeis suggested that his plan be implemented through established

institutions, as well as through private enterprise. He advocated a new issue of stock so that indebtedness of the Zionist Organization could be paid off. He also conceived of land and mortgage bank for future loans. His solution was again along the lines of capitalist thinking: a company for home building--and though expensive, he also advocated the building of educational facilities as an essential foundation of the new society.

Brandeis was certainly not a socialist. He was willing to provide new settlers with basic necessities, but no more. He clearly enunciated the slogan: "no easy living in Palestine, no easy money."

Another of the major problems in Zionism has always been that of immigration to Palestine. Here Brandeis championed the conservative position of limited aid to settlers, and the goal of self sufficiency. Furthermore, he did not want the Zionist Organization of America to supply any money, but preferred an international Jewish group to handle such problems.

As for Palestine itself, he urged that the American Jewish community subscribe to the forthcoming Palestine National Loan sponsored by the British.

In the case of funds, he actually made a list of twelve categories ranging from outright financial investment (bank stocks) to gifts for Medical Units and Afforestation. This is probably the key section in the Zeeland

Memorandum since the argument Brandeis was having with Weizmann evolved around the issue of the accounting of funds. It was referred to as "comingling funds," and Brandeis clearly opposed to such a practice. The issue was important to the capitalist who distinguishes between the real earning potential of investment and charity.

Coupled with the method of raising funds was the problem of their application. This problem was one that Brandeis had grappled with earlier in his legal career: proper expenditures of funds combined with the smallest percentage allotted for administration compatible with the efficient use of these funds. Brandeis had been angered in London when he discovered the haphazard method of expenditures and disbursements being employed. He wanted a single organization to control spending.

As Brandeis concluded his memorandum, he moved from the specifics of economic policy to the world of politics and power: he proposed a reorganization. And it was this proposal, though no specifics were spelled out in the memorandum, that shook the Weizmann power structure in England. Less than a year later, Weizmann came to America to challenge Brandeis on his own ground and to end the threat to his own leadership.

Of course, the issues of reorganization were couched in the terms of economics, finance, and accounting. But as we shall see at the end of this chapter, these arguments

the significance of his own actions. In his account of his

were tools for dislodging Weizmann. Nevertheless, quite apart from whether or not Weizmann deserved to be dethroned, it is important to appraise on its own merits, the economic proposal that Brandeis brought forward.

As the great powers develop ever more complicated technologies, the connection between development and industrialization becomes obvious. Even in 1920, Brandeis suggested an economic frame work for light industry and business. Unfortunately, he was a voice crying in the wilderness. The plan for Palestine's economic development moved on to an agricultural axis hitched to a broad program of socialism: an emphasis that still retards modern Israel's economy.

2. Events in America

The climax of the conflict between Brandeis and Weizmann occurred in America. As we shall see, attempts were made to compromise the quarrel, but these attempts ultimately failed. To a degree all reports are biased, and yet the careful reader can discern the major argument and issue. This final break between Weizmann and Brandeis seriously affected the next two decades of Zionist activity in the World.

A. The event according to Weizmann

Weizmann's writing style tends to the personal reminiscences, and frequently emphasises personality types and the significance of his own actions. In his account of his

arrival in America there is more detail about the boat and the reporters and the parade through New York and the thousands of well wishers than about the disagreements. Weizmann and his party arrived in New York harbor on April 2, 1921. It was at that point that the first round of compromises began. He states:

Before leaving the ship I had received a printed memorandum brought to me by Judge Julian Mack, in which the Brandeis group, which constituted the American Zionist administration, expounded their views and set forth the conditions on which they would be prepared to support my mission. The main points dealt with their conception of the new character of the Zionist Organization and with the economics of the movement. Henceforth world Zionism was to consist of strong local federations, so that the old unity which had been the background of the authority of our Congresses should be replaced merely by co-ordination. In this there was a reflection of the deeper--and less conscious, therefore less overtly formulated--feelings of the Brandeis group about the organic unity of World Jewry.¹⁰⁵

Weizmann then goes on to say that he and his associates had grown up in Zionism, and that for them Zionism was an expression of the unity of the Jewish people. And he asserts that the Brandeis group was against Jewish Nationalism. Furthermore, the Brandeis group was in favor of "private investment and individual projects," which Weizmann was convinced would never work.¹⁰⁶

The rest of the recounting is a balance of the personal

(i.e. conflict between Eastern European Jews versus the American Jews) and the organizational (the plans he rejected). He rejected Judge Mack's conditions for co-operation, and he proclaimed the Keren Hayesod as a Zionist instrument. And as the breach widened, with no compromise in sight Weizmann comments:

A whispering campaign was launched against the Executive in Jerusalem, which was accused of consisting of men completely incapable of handling large sums of money: great idealists, of course, but utterly impractical, and given to "commingling of funds." And neither they (the members of the Palestine Executive), nor we (the anti-Brandeisists) [sic] had any notion of "American Standards"-- whatever that might mean.¹⁰⁷

As for the confrontation at the Cleveland Conference in June, he only comments that he and the European delegates attended but did not participate. His comment was:

The result was that the administration was - (the Brandeis group) defeated by an overwhelming majority. I am afraid that they did not prove very good losers, for the whole Brandeis group resigned from the Executive of the American Organization. Nor did they remain neutral; most of them entered into active and formidable opposition against our work. There is little doubt that our efforts in the first few years after Cleveland--crucial years for Palestine--would have been much more productive if not for the implacable hostility of most of our former colleagues.¹⁰⁸

B. The events according to the Pro-Brandeis group.

Jacob de Haas, like Weizmann, recounts all of the major

details. However, he is less willing to place the emphasis on the personality conflict. For example de Haas writes:

They (Weizmann) claimed that the Brandeis program aimed at dissolving the unity of the Zionist Organization and sought to usurp the prerogatives of the World Executive through the power of the purse. Moreover they raised for the third time in Zionist history the sinister charge, "That the Western Jew lacks understanding of the Jewish soul." Achad Ha'am's followers used this means of attack in 1881 against Pinsker, ... used it against Herzl in 1901. Now it was employed against Brandeis and his colleagues. The idea was reduced to the slogan "Pinsk versus Washington" and it is not without humor that men who never acquired a working knowledge of Yiddish and who are as remote from Pinsk, Vilna or Kovno as anyone born in the United States, became part of this praetorian guard that battled in New York for the ideology of Lithuania.

That the basic differences related to a personal breach of faith, financial irregularities, consideration of mutual responsibilities and views as to the proper administration of institutions; that on the one side was an articulated program for action, and on the other nothing but a new version of Aladdin's magic lamp, mattered not at all.¹⁰⁹

de Haas also took part in some of the preliminary attempts to secure a compromise with Weizmann when the latter arrived in America in April, 1921. He tells us that he took part in the writing of the document.

All that the compact stipulated was that no commitment for one department of the Palestine budget could be employed for any other and that no funds could be borrowed from one account for some newly conceived emergency or unanticipated purpose. Stripped to essentials, it is the application of the legal principle that guides United States government appropriations.¹¹⁰

Oddly enough, de Haas does not give any details about the actual fight in Cleveland in June. He merely repeats the resignation letter of Judge Mack and the 37 others who resigned.

C. Opinions and details.

The final break between Weizmann and Brandeis has intrigued many writers and some historians. Unfortunately, as these writers tried to explain the conflict they concentrate on the more dramatic, but inaccurate, clash of personalities. Many have pictured the conflict as East versus West or the true Jew versus the assimilating Jew. For example, the editor of the Reflex magazine commented:

A break was bound to come, and it came speedily enough. He was voted out of power by a majority of two to one at the Cleveland Convention in 1921, not only because his leadership was silent, but because his goyishness was too audible. His entire conception of Zionism was goyish and not Jewish, and this goyish conception of Zionism he wanted to impose upon American Jewry.¹¹¹

The amazing thing about this particular article was that the author was able to go on for page after page in the same vein, complaining that Weizmann really was Jewish

and Brandeis was not.

After the split in the Cleveland Convention, Louis Lipsky replaced Brandeis as the major leader of the American Zionists. Since he was at the convention, and helped bring Brandeis down, he could have written of the more fundamental issues underlying the split, but instead he chose to discuss Brandeis' personality, not his ideas:

Louis D. Brandeis became a Zionist too late in life. His personality was matured and fixed, and his way of life was trained in habit. It was not easy for him to learn new ways of thinking or of living. His was a liberal approach to the problems of American life...

In all of his past his Jewish heritage had played no real part except as auxiliary to his basic concepts. He had to be recalled to his memory of the Jewish past that lived in his subconscious self. He had to return to his own people. It was a long distance to go. ... The unfortunate feature of his return was that his knowledge was acquired not directly at first-hand but through the interpretations of others.¹¹²

Even very recent comments on this conflict have adhered to the idea that there must have been a clash of cultures, and personalities. Thus Melvin I. Urofsky writes:

Here, then, was the basic conflict between Louis Brandeis and Chaim Weizmann. The one saw Zionism coolly and intellectually, the other fervidly and emotionally; one planned ahead two or three steps at all times, the other kept his eye only on the distant star; the

American, to whom hard facts were the only realities, and the Russian, to whom his dream was the important truth. Both wanted the same result, and each was unable to comprehend the other.¹¹³

This analysis points to a more accurate understanding, yet over-emphasises the role of cultural difference. As I have tried to indicate, the conflict grew out of the challenge that a new economic concept set for an old economic concept. Brandeis' new economic program would be efficient, raising investment funds, and also raising charitable funds, but only the efficient manager of money could live with such a program. On the other hand, Weizmann was following an economic pattern which relied to a large extent on charity, a system that spent money even before it was received, and a system that did not differentiate in funds that were for investment or for charity--they were spent as though they were one.

The conflict in these economic systems can be seen in the attempts that were made to compromise the systems, and the counter proposals put forth by each side. For as late as February 4, 1921, L. J. Stein, who was Weizmann's secretary, and would later write the book, The Balfour Declaration, submitted a proposal--marked STRICTLY CONFIDENTIAL.

In that document he suggested a re-organization that would create an Executive including Justice Brandeis, Sir Alfred Mond, Mr. Sokolow and Dr. Weizmann--though Brandeis

would not be available for day to day administration. The qualities of each of these men is listed in the document. And it is interesting to note that "Dr. Simon would stand for efficiency, for a sound financial policy, and for a business-like handling of the practical work of reconstruction." And the proposal even discusses the removal of Ussishkin, stating "This is essential if any progress is to be made."¹¹⁴

Very little in this proposal was accepted. Brandeis refused to become part of such an executive, and Ussishkin retained a powerful position as director of the Jewish National Fund.

The Dr. Simon referred to had resigned from his position two weeks earlier. Originally Simon and Nehemiah De Lieme were brought into the organization because they were considered successful business men. They resigned their jobs on January 20, 1921, (although the general public did not learn the reason until May when their resignation was published in full). They said in part:

We view with deep concern this tendency to restrict the Zionist Organization to non-economic activities and to hand over the economic work to a committee whose trust is not clearly defined and on which the responsible representatives of the Zionist Organization are in a small minority. The proposals which were made last summer to the Annual Conference for the participation of non-Zionists in our work, and which were given up supposedly because they went too far, never contemplated such abandonment of the economic

functions of the Organization.¹¹⁵

A key document in the conflict is the "Summary of the Position of the Zionist Organization of American In Conference with Dr. Weizmann and his Associates." The pamphlet was issued by the Zionist Organization of American, and it clearly puts forth their case. It has been my contention in this chapter that the conflict between Brandeis and Weizmann was over a change in economic postures. This conflict can be clearly seen in the pages of the pamphlet, especially with reference to the Keren Hayesod:

The Zionist Organization of America is opposed to

1) The commingling of donations and investments.

a) A conglomerate fund is financially unsound.

b) a conglomerate fund would perpetuate the economically vicious confusion of productive and unproductive work in Palestine.

c) A conglomerate fund would be practically treated as an appeal for donations.

d) the Maaser appeal should be confined to the Donation Fund; the Maaser principle is inapplicable to investments.

e) Conglomerate fund, through its very complexity, destroys the personal equation, and eliminates the continuous and growing interest of the investor.¹¹⁶

Thus far the pamphlet is clearly deliniating the arguments that Brandeis had been promoting, that there must be a distinction between charity and investment. The American Zionists attempted to be positive and to cast the Keren Hayesod into a model that could succeed in America.

The Zionist Organization of America maintains that

1) This plan for fund-raising in America is an adaptation of the Keren Hayesod to American conditions.

Adaptation was inevitable because of the shifting structure of the Keren Hayesod, the final plan and character of which has not been determined.

2) By all previous practice and tradition, Federations are autonomous as to the methods of fund-raising.

3) This plan does not in any way imply separatism, or derogation from the authority of the Executive of the World Organization, whose relation to the Keren Hayesod has not even now been determined. Nor can it possibly imply lack of faith in the Jewish masses, unless disbelief in their permanent toleration of unsound economic methods and standards and persistent confusion of the unreal with the ideal, be a lack of faith.¹¹⁷

If one were only to judge this conflict from the published arguments of the Brandeis forces, one might assume that they had presented a water tight case. However, the major fact is that though the Brandeis forces were well prepared with arguments, they lost the case. On April 9, a Saturday evening, the meeting must have been a long one, and Stephen Wise seems to have severely criticized Weizmann. However, Weizmann did not reply until the next morning.

I am very grateful to my friend Mack who did not allow me to speak last night for I might have said things yesterday which I would not have said this morning.¹¹⁸

After these opening remarks, Weizmann dealt with the statements by Stephen Wise:

Still, I am forced to revert for a few minutes to some of the remarks made by Dr. Wise. They must not be left unanswered. First of all, he spoke at great length and with a considerable amount of feeling on the important charge of incompetence which I flung in the face of this assembly. I maintain the same charge not only against you, but against myself.¹¹⁹

And so Weizmann goes on at some length detailing the problems of decision-making, and the difficulty of planning a program in large meeting. He then goes on to argue for unity, stating: "God knows I do not make any difference between Americans and others. I wish to God there were no difference between the American and Russian issues."¹²⁰ It also seems that Wise had made a statement that he could not air certain complaints because of "pain" and unity. Weizmann turns to this, "For God's sake, Dr. Wise, speak out whatever you have in your mind. Let it be clear without any reticence, and I will answer your questions as publicly as you wish."¹²¹

At this point Wise takes up the subject of the Memorandum and asks what is wrong with it. At this, Weizmann attempts to explain a major criticism; the failure of the Palestine Commission (that is Simon and de Lieme). He goes on at great length explaining how telegrams are sometimes sent out of his office which he does not see, and how he cannot attend every meeting where decisions are made. And he then gives this explanation:

At the London Conference it was suggested that money was being wasted and poured out like water, and that everything was being done inefficiently; that was why these men were sent out there, to pull the thing together, to see what money could be saved and what could be done in order to increase the efficiency of our work in Palestine. They did have plenary power within the limits of that particular task. They could do as they liked, and we have adopted their main suggestions in this respect. We have cut down the budgets which they attacked.

Then they decided upon a new series of programs; in other words they suggested a new policy, a departure from the old policy. This new policy may be wrong, right, or indifferent; I am going to tell you a few points, We said: "Gentlemen, that does not fall within the province of an economic finance commission, not even within the province of the Executive, but belongs solely to the Congress."¹²²

The entire transcript of the meeting is an important historical document, for Weizmann clearly states how he feels about a number of issues in Zionism. However, the meeting ostensibly was convened to work out a compromise with respect to the Keren Hayesod. This is Weizmann's understanding of the problem:

Since when have Dr. Wise and Dr. Weizmann become such experts in finance as to be able to tear each other into pieces? There is something else behind it. The very thing that I have just spoken about is behind it. That became clear to me after my friend Frankfurter first made this proposal. It was only then that things became clear to me. When Mr. Frankfurter was asked point blank--

granted for a moment that we do not discuss donations and investments-- 'is this fund whatever it may be, donations or investments, commingled or not commingled, is it going to be controlled by the Zionist Organization of the World, yes or no,' Mr. Frankfurter remained silent. ... But I am getting hot and I must not do that. I must become cool. I thought that when you saw Prof. Frankfurter yesterday incapable of answering yes or no, for very excellent reasons which are absolutely sincere and which I respect, you would say that these propositions cannot be discussed because in practice they mean that you have control of the Zionist Organization. ... If I am responsible, I can let you do nothing to break up the Zionist Organization or to bring about a secession of the American Zionists from the Zionist Organization. Is this fund whatever it may be, going to be controlled by the World Zionist Organization. Yes or no? If yes, there is room for discussion. If no, good-bye. Is that clear? It is not Ainkelo Heinu. You can answer one word.¹²⁵

Weizmann probably correctly understood that the new economic policy would mean a lessening of his power in the organization as the dispenser of monies. For efficiency in collection and disbursement of money would have insured more control by the original investor or donor. He correctly understood that the control of the funds was essential to control of the organization. Towards the end of the conversation, Weizmann brought up the subject of Brandeis. And his comments may have led some to consider his statements as emotional argument against a man he did not like. A more accurate understanding in-

dicates that Weizmann did not regard Brandeis' economic expertise as international--rather as local.

Every man can co-operate with us who is ready to accept our political views--who is ready not only to listen to my political desires, as to how things are to be done in Palestine, but who is also ready to supply all the technical knowledge and experience which I have not got and which we might not have in Zionist affairs. I consider Mr. Brandeis as little a business man as I am myself.

Dr. Wise: Mr. Brandeis is considered one of the greatest experts on finance and railroads and industry in America.

Dr. Weizmann: Exactly, and on Zionist finances and Zionist railroads I am the greatest authority. In what does Mr. Brandeis' great value consist? He has a clear view of what finances are necessary for the American democracy and not for sharks. He fought sharks in the American financial world and fought them very successfully. I think I know how to arrange our finances in principle.¹²⁴

Certainly, Weizmann can be admired for trying to keep the Zionist Organization unified. And he can be forgiven for protecting his own place of power in the organization. However, he can be faulted for his primitive understanding of economics, and for his refusal to up-date his economic thinking. He erroneously stated:

The finance in the Stock Exchange of New York is wrong finance in Jerusalem. And what is good finance in Jerusalem may be hopeless in New York. If we are trying to adapt London or New York financial methods to Jerusalem, you are committing a hopeless mistake. Our banks have been built up differently. No bank is built up as badly as ours. We cannot help ourselves. We had to have particular methods,

and there perhaps lies our weakness, but it was necessary. Supposing a gentleman from America or from London came today and invested ten million dollars in Palestine and employed Arab labour. He might create certain things in Palestine, but the primary effect would be to enrich the Arabs. Every enrichment of the Arab is a weakening of the Jews.¹²⁵

Thus, the issue dividing Brandeis and Weizmann was the difference between a man looking to the economic possibilities of a capitalism that transcended national distinctions, and the man looking to an economic nationalism crippled by a willingness to stand still in order to retard the growth of an opposing nationality.

The documentation of the economic origins of the Weizmann-Brandeis Conflict could go on showing the letters between Mack and Weizmann, and the resolutions passed on the Keren Hayesod. But these documents tend to repeat themselves. The secret of the controversy was well kept until headlines announced on April 22, 1921, "Dr. Weizmann Breaks Negotiations with Zionist Organization of America." And at that point Judge Mack attributed the "break" to economic policy:

Sunday Dr. Weizmann abruptly terminated the negotiations which I have had with him and his associates for the past two weeks, in the hope of reaching common ground on the basis of the unanimous resolution of the Buffalo Convention for the establishment in the U.S. of the Keren Hayesod as a Donation Fund only, to be used exclusively in Palestine and under

such adequate safeguards as would secure its proper expenditures.¹²⁶

D. The Cleveland Convention.

On Sunday June 5, 1921, the Cleveland Convention began. The convention was not even five hours old when the Brandeis forces discovered that they did not have enough votes to stay in power. The first vote of the convention elected a Judge Dannenbaum to be chairman of the convention over Judge Mack. (The vote was 139 to 71.) There were a number of sessions that were given to debating the actions of the Administration of the Zionist Organization of America, with persons like Stephen Wise and Abba Hillel Silver defending them and Louis Lipsky attacking.

This is the official report of the final moments in Cleveland, as the Brandeis forces were losing the vote of confidence.

When Professor Frankfurter concluded his address, it was about two in the morning. The Chair declared that the vote would be taken on Mr. Neumann's substitute resolution first, disapproving of the Administration's report [Judge Mack's]. It was a tense and dramatic moment when the roll was called. There was complete silence in the hall, the tumult and excitement, the cheers of the delegates, which was part of the heat and dust of the discussion, completely passed away. The delegates were conscious of the seriousness of the moment. And the vote was announced-- 153 against a vote of confidence, 71 for. There was again absolute silence in the hall.¹²⁷

At that point Judge Mack rose and formally resigned from

his office as President of the Zionist Organization of America. He also read a letter from Justice Brandeis stating that if the Administration lost a vote of confidence he too would resign as Honorary President of the ZOA.

Not only did Mack and Brandeis resign, but so too did

Jacob de Haas, Bernard Flexner,
Felix Frankfurter, Dr. Harry
Friedenwald, Rabbi Max Heller,
Horace M. Kallen, Rabbi A. H.
Silver, Robert Szold, and Rabbi
Stephen S. Wise.¹²⁸

Actually Brandeis had learned in London that he could not hold the leadership of World Zionism from an American base. Brandeis was asked to resign from the Court in order to lead the World Zionist Movement. This he refused to do. Thus, there can be no argument whether or not Brandeis could have won in Cleveland--for victory only meant a split in the movement and at that point he was in no position to lead the entire movement.

Thus ended the Brandeis regime in American Zionism. And some may ask, if Weizmann himself had not come to Cleveland, could Brandeis have been voted out? The question would imply that by force of personality Weizmann defeated Brandeis. I would contend that Weizmann was motivated by a desire to establish the Keren Hayesod and defeat any political opposition that stood in the way of his program. Yet it is certainly true that one might derive from Weizmann's statements that he considered the fight a personal

one. As in his victory speech in Cleveland:

Still, one has to choose, choose between them and the World Zionist Organization. I repeat it to them here and ask them to remember and they can hold me to my word at the Congress. I do not agree with a single item of your program, I do not agree with the philosophy of your Zionism, your conception of Jewishness. We are different, absolutely different. There is no Bridge between Washington and Pinsk.¹²⁹

Weizmann frequently gave into this kind of statement an argument from a defense of his own Jewishness. However, because he was shrewd and because he was a genius in politics one can also find in that same speech, the deeper lines of discontent. For example, Weizmann was depending on America after San Remo to provide the major economic and moral energy for Palestine. But he did not find it, this is his account of the London Conference;

The American delegation arrived. You know what happened. Nothing except a doleful declaration that there was no money. Reference was made here in a veiled form to a plan that was brought from America,-- not a plan for colonizing Palestine, not a program, but a plan for building up an Executive in London. Possibly it was a good plan, possibly it was a bad plan.¹³⁰

At this point in his speech, Weizmann trails off into a discussion of the great responsibility he had to assume in the Zionist Organization. Nevertheless, it is clear that the re-organization plan was a thorn in his side.

Unfortunately, Weizmann lends himself to the theory that his conflict with Brandeis was a personal one. Actually, the weight of the personality factor is more important in understanding the ego involvement of Weizmann and the Zionist Organization, than in understanding Weizmann and Brandeis.

E. Summary.

The defeat of the Brandeis forces at the Cleveland Convention marks a major turning point in the history of American Zionism. The vote of no confidence on June 7, 1921, marks the formal dividing line. For the vote was the culmination of militating factors against Brandeis and his associates. One observer comments:

With the defeat of "Washington," Brandeis and the best elements of American Jewry were for the time being eliminated from the organizational work of reconstruction in Palestine. American Zionism again became a mere provincial center within the World Zionist Organization and Zionism lost great men of ideas and experience. As a result, the upbuilding of Palestine in the 1920's was carried out at a snail's pace instead of the usual American tempo. It was years before American Zionism recovered from this setback, in fact not before Stephen Wise, Judge Mack and a few others had returned to active Zionist work.¹³¹

In retrospect one can argue that Weizmann and his associates erred and did not serve the best interests of World Jewry. And those who argue for Brandeis' abilities

could ask why anyone would want Brandeis out of the Zionist movement. Yet, it is clear that to the leaders of that time, the idea of compromise between Brandeis and Weizmann was attempted and failed. The result was an "either-or" situation. In all fairness to Weizmann, it must be pointed out that he was so concerned with the problems of Zionism that he expected every Zionist leader to devote his full-time to their problems.

It will be remembered that Brandeis was offered a place of major leadership if he would resign his seat on the Supreme Court. It is now clear that such a decision could only result in condemnation no matter what choice Brandeis made. If he resigned from the Court, an uproar would have been heard in America. After all, Brandeis had often asserted that Zionism and American patriotism were compatible, but he could not turn his back on America and allow that patriotism to be challenged. Thus, Brandeis turned down the position of major leadership in the Zionist Organization, perhaps thinking that he could at least exert his influence on the Zionists behind the scenes.

I have attempted to show in this thesis that Brandeis was a man of high principle, of ideological consistency, and an innovative Zionist theoretician. The conflict with Weizmann is another example of these characteristics. Perhaps a lesser man would have agreed to compromise his

theory of Zionism to keep the peace with Weizmann. And rightly or wrongly for the movement, Brandeis was honest with himself and what he believed in.

From an historical point of view, Brandeis followed a pattern in the conflict with Weizmann that had been his style all of his life. When Brandeis argued, he argued with the leadership; when he disagreed he disagreed with significant opinions. In his day he was the man who challenged the Establishment. He had challenged President Taft, the railroads, insurance companies, the Supreme Court (with the Brandeis brief), Jacob Schiff, Louis Marshall, and Chaim Weizmann. I think that I have shown that Brandeis was not an iconoclast. Brandeis was an inovator, a man ahead of his times.

It would be unfair to assume that Brandeis ended his interest in Zionism at the Cleveland Convention as a bitter loser. Quite the contrary, he retained an active interest in Zionist activities and events in Palestine. I think that I have described Brandeis' major contributions to Zionism and the major events of his life in Zionism.

Almost ten years had gone by in 1930, when the Zionist Organization of America called upon Brandeis to again join in with them in a united front. The situation in Palestine was growing worse, and events in Europe were moving into the serious stage. In a long letter of reply Brandeis makes clear that he will return to the ZOA if

there is a reorganization of their structure. In part, the letter states:

The experience of the last ten years has confirmed the views, expressed on July 14, 1920, in the Zeeland Memorandum, that the efforts of the Zionists should be directed primarily to the economic development of Palestine. In our judgement the best guarantee which we can create for the realization of our national aspirations in Palestine is wide-spread co-operation in a carefully devised plan of economic development, which will make practical immediate increased settlement by Jews in Palestine.¹³²

And again Brandeis was not listened to! His reorganization plan was not attempted, and the United Front plans were dissolved.

The unfortunate aspect of Brandeis' life was that he was a controversial figure in almost everything he attempted. In the history of Zionism he is a much praised and a much maligned personality. It is disgraceful that those who have been the most vicious in attacking Brandeis have questioned his Jewishness. The case for Brandeis' contributions to Jewry and to Zionism should stand or fall on his actions for the Jewish community and his plans for the rebuilding of Palestine.

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