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• THE POLITICAL STATUS OF THE JEW IN ENGLAND
AND THE AMERICAN COLONIES FROM THE RE-ADMISSION
TO THE EMANCIPATION •

A THESIS SUBMITTED AS PARTIAL REQUIREMENT FOR
THE DEGREE OF RABBI AT THE HEBREW UNION
COLLEGE.

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WOLF, LUCIEN - MIDDLE AGE OF ANGLO JEWISH HISTORY

WOLF, LUCIEN - JEWRY OF THE RESTORATION

ABBREVIATIONS

- A.J.H.S. AMERICAN JEWISH HISTORICAL SOCIETY
- ANDERSON ANDERSON'S DICTIONARY OF LAW
- ALIENS . . . HENRIQUES, H.S.Q. . ALIENS AND NATURALIZATION, LAWS OF
- BLUNT - . JOHN ELIJAH BLUNT " HISTORY OF THE ESTABLISHMENT AND RESIDENCE
OF THE JEWS IN ENGLAND WITH AN ENQUIRY INTO THEIR CIVIL
DISABILITIES"
- COBBETTS . . . COBBETTS * PARLIAMENTARY HISTORY OF ENGLAND
- CHRON. . . CHRONOLOGICAL TABLE AND INDEX OF STATUTES
- CYC. CYCLOPEDIA OF LAW AND PROCEDURE
- C.J. .CORPUS JURIS
- DALY . . . CHARLES P. DALY " THE SETTLEMENT OF THE JEWS IN NORTH AMERICA"
- EGAN . . CHARLES EGAN "THE STATUS OF THE JEWS IN ENGLAND"
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- MAUAULAY * LORD MACAULAY
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-2-

- 10 George I, cap. 4.
- 1 George II, stat 2, cap.23
- 4 George II, cap. 21
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- 6 George III, cap. 53, sec. 2
- 13 George III, cap. 21
- 34 George III, cap. 42
- 37 George III cap. 63
- 6 George IV, cap 67
- 7 George IV, cap.67
- 8 George IV, cap. 54
- 9 George IV, ca . 17
- 10 George IV, cap. 7
- 33 George IV, cap. 4
- 6 and 5 William IV, cap. 28
- 5 and 6 William IV, cap. 36
- 1 and 2 Victoria cap. 105
- 1 and 2 Victoria cap. 108
- 8 and 9 Victoria cap. 52
- 7 and 8 Victoria cap. 66
- 15 and 16 Victoria cap. 43
- 21 and 22 Victoria Cap. 48
- 29 and 30 Victoria cap. 19
- 30 and 31 Victoria cap. 75, sec. 5

31 and 32 Victoria, cap. 72

33 and 34 Victoria cap. 14

34 and 35 Victoria cap. 48

35 and 36 Victoria, cap. 33

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2 KEBLE p. 314

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TABLE OF CONTENTS

FOREWORD

- Chap. I. INTRODUCTION
- CHAP. II DEFINITION OF TERMS
- CHAP. III CONDITIONS DETERMINING THE POLITICAL STATUS OF THE JEW IN ENGLAND
- CHAP. IV AN ANALYSIS OF THE POLITICAL STATUS OF THE JEW IN ENGLAND FROM
THE READMISSION TO THE EMANCIPATION.
- CHAP. V. THE ACQUISITION OF THE RIGHT OF BRITISH NATIONALITY
- CHAP. VI THE ACQUISITION OF THE RIGHT OF FRANCHISE
- CHAP. VII THE ACQUISITION OF THE RIGHT OF HOLDING OFFICE UNDER A MUNI-
CIPAL CORPORATION OR UNDER THE CROWN.
- CHAP. VIII THE ACQUISITION OF THE RIGHT TO SIT IN PARLIAMENT
- CHAP. IX. THE ACQUISITION OF THE RIGHT TO PRACTICE AT THE BAR.
- CHAP. X. THE POLITICAL STATUS OF THE JEW IN THE AMERICAN COLONIES
- CHAP. XI CONCLUSION

FOREWORD

In the preparation of this thesis, I received valuable information and assistance from my good and loyal friend Mr. Phineas S. Phillips of Cincinnati who clarified for me many legal terms and concepts, and who made it possible for me to gain access to a private library in which most of my source material was located. I wish to take this opportunity to acknowledge appreciation of same.

I wish to express my gratitude to Mr. Edwin Gholsom, Cincinnati, Librarian of the Cincinnati Law Library who extended me courtesies and assistance in the preparation of this work.

I also wish to acknowledge appreciation to Mr. A. S. Oke, Cincinnati, Librarian of the Hebrew Union College, who permitted me to use much rare and valuable material in the preparation of this thesis.

During the investigation of materials a consideration on a similar subject was discovered. In this Mr. Philip Waterman wrote on the "Civil Status of the Jew in England." In it he specifically states that he is not dealing with the political rights of the Jew. Furthermore the periods of these two works are not the same. Neither one deals with rights that are considered by the other.

THE POLITICAL STATUS OF THE JEWS IN ENGLAND AND
THE AMERICAN COLONIES FROM THE READMISSION TO THE EMANCIPATION.

Chapter 1.

Introduction:

The arrival of Manasseh ben Israel in London in 1655¹ constitutes a line of demarcation for the Jew which separates the period when he had no political rights from the period which led to complete emancipation. It is not true to say that the day when this Rabbi set foot upon English soil, a great change took place. History does not work that way. But the immediate consequences of that occasion were that all the representatives of England and a large proportion of the lay population began to consider very carefully the problem of the Jew. Many favored the readmission, and many were most bitterly opposed to extending the blessings of England to the co-religionists of him in whose name they chiefly objected to the Jew. Oliver Cromwell, whatever else may be said for or against him, was a good statesman. He had the best interests of England at heart. His interest was to bring prosperity to the realm. His experience told him that the presence of the Jew in the land would be an important factor in bringing such prosperity. This he knew from the many powerful individuals who helped him attain the position of power that was not his. These individuals were Jews. The religion of their heart was Judaism. The outward cloak of the Marano was different. He professed to be a Spaniard or a Portuguese. But he was

1. Albert M. Hyamson -- "A History of the Jews in England".
Jewish Encyclopedia -- Vol. VIII, p. 284
2. Jewish Encyclopedia -- Vol. III, p. 595

a Jew none the less and he adhered to his religion under the most trying
 circumstances. Men like Antonio Fernandez Carvajal¹ and Simon de Caceres²
 may have been merchant strangers in England, but they did more^{for} England and
 loved it as well as most native born Englishman. Oliver Cromwell did not
 care what religion these people possessed. He wanted assistance to govern
 the country. Such assistance means money and these Jews seemed to be able
 to supply the money.

Furthermore, the Jews possessed another asset that was not overlooked
 by the powers-that-be and those-that-would-be. The Jewish merchants had
 representatives and secret agents in various large commercial cities of the
 world. Through these offices, the Jew could supply much information that
 was of vital importance to rulers. Cromwell³ did not hesitate to use this
 source of information. Likewise, Charles II did not hesitate to use infor-
 mation from other Jewish merchants. Hence the political value of the Jew
 was recognized and the petition of Manassah ben Israel in behalf of the
 Jews to settle in England compelled careful consideration.

During the three and one half centuries preceding the date of the ar-
 rival of Manasseh ben Israel, the Jew was not permitted to reside in Eng-
 land. Since he had not even the most elemental civil rights, it necessar-
 ily follows that he had no political rights. --(the distinction will be
 clarified later)-- It would seem that no Jews lived in England. Due to
 the expulsion of all Jews in 1290,⁴ and the subsequent legislation⁴ directed
 against them, it would seem impossible that any Jew should live in Great
 Britain. Yet such is not the case. Ample evidence exists that Jews lived

1. Jewish Encyclopedia -- Vol. 3 Page 595
2. Jewish Encyclopedia -- Vol. 3 " 481
3. Jewish Encyclopedia -- Vol. 4 " 366
4. Albert M. Hyamson -- A History of the Jews in England. p. 100
 Blunt, John Elijah -- A History of the Establishment and Residence of
 the Jews in England. p. 61

on the island.¹ Antonio Fernandez Carvajal arrived in 1635². He maintained a residence and pursued his daily occupations and even had a hand in the government of the people. Not in any official capacity, to be sure, but in a manner that was just as powerful, if not more so. Those who manipulate the purse strings of a nation can command. The Jewish merchant strangers controlled much ~~more~~³ of the economic conditions.

The question arises, how could the Jew live and trade in a land where the government officially opposed such residence and such trade; when the dominant religion and its representatives were violently opposed even to the most casual communications with the heretics; when the social conditions were such as to make life for the Jew uncomfortable in a hostile environment? This can be answered when we realize that actual social relations and conditions are never what they seem to be, if we read only the law. The existence of a Prohibition amendment to the Constitution of the United States of America does not mean our country is dry. The fact that the regulations of the Pullman Company are such that no space is sold to a negro in the state of Illinois and in other states does not mean that our brothers whose skin, by an accident of birth, happened to be black do not quietly and luxuriously pass many nights of pleasant dreams while traveling thru the states mentioned. A Pullman conductor may not observe the color of his passengers either because he does not want to or because it is economically more interesting not to. Oliver Cromwell and others did not ask what color of religion the Jew possessed. The laws against recussants and heretics were safely concealed in the books of the realm. One is not compelled to know them and to enforce them. The economic

1. Wolf. R.J.E.

2. J.E. vol 3 p. 595

3. J.E. vol 4 P. 366

motive in life may not be the most noble one, but no one can deny its potency. The answer, therefore, is plain. The Jew just lived there. He just traded there. And as long as it was to the advantage of the powers and others to permit such a state of affairs, it actually existed. Men were no different then than they are today. To be sure, such an unofficial, tolerated status is pregnant with danger. Who knows when a new conductor is engaged by the Pullman company who knows not the ways of his predecessors? Who knows when stringent law enforcement becomes the interest of some fanatic? It is to avoid such a perilous situation that Menasseh ben Israel presented his ¹ "Humble Petitions" before the Whitehall conference. It is to avoid the necessity of being merely tolerated that three centuries were consumed in an uphill fight to acquire political equality. From 1655 to 1856 is a long time in the eyes of a single mortal being. Even from the viewpoint of a nation, it is no inconsiderable small period of time. But viewed "sub specie aeternitatis" this is less than a minute. During all this time the Jew lived in England, handicapped to be sure by various political restrictions, yet he did live there; he prospered and he worshipped his God. The data of history can not always be accounted for, yet the facts must be seen as facts. Relative to what has just been said, it is of interest to note that emancipation from social disabilities often precedes emancipation from political disabilities. When political emancipation came in 1871 it was really a formality. A status was legally recognized which was actually and universally recognized. Jews actually mingled with Englishmen in 1655 before they were officially invited so to do.² In 1835 Mr. David Salomon was elected sheriff for London

1. of Hyamson, p. 198

2. of ibid p. 327

before he was really able to hold such a political office. An act had to be created to permit him to hold office¹ which the citizens elected him to hold. Baron Lionel de Rothschild was selected² by London to sit in Parliament in 1847 before an act³ was passed which enabled him to do so. If by political emancipation we mean the condition when no restrictive measures exist on the statute books prohibiting a Jew from holding office, then the social freedom to do so preceded the political freedom to do so. The term social being used of course, in its broader, scientific sense.

Before continuing with the analysis of the thesis, it might be well to get a bird's eye view of the history of England and of the location of Anglo-Jewish history in that political landscape. So far as the Jew is concerned, there is a "Pre-Expulsion period of Anglo-Jewish History" as Joseph Jacobs refers to it;⁴ a "Middle-Age of Anglo-Jewish History" as Lucien Wolf refers to it⁵ (in a paper by that name that is separately published); and a Re-Settlement Period. The first includes all Jewish experience in England until 1290, the year when King Edward I issued the decree⁶ which compelled Jews to leave the country. The Middle-Age extends from 1290 to 1656. The last period comprises all that happened from 1656 to the present. During the pre-expulsion period the status of the Jew in England^{6a} was analogous to the general status of the Jew in Europe. This means that false charges were made against the Jew that led to massacre and persecution. He was regarded as the special property of the King and as such was looked upon in a similar light as we in America look upon the animals of the forest and of the birds in the air. With the

1. 5 and 6 Wm the Fourth Statutes cap. 36

2. Hyamson p. 328

3. 21 and 22 Vict. cap. 49

4. J.Q.R. vol 10 p. 210

5. J.H.S.E. paper by that name

6. Blunt: Hist of the Establishment and residence of the Jews in England p. 61

6a. J.Q.R. vol 10 p. 217 Jos. Jacobs - Typical character of Anglo-Jewish Hist.

Jew, the King could do what he pleased. He could sell, mulot or protect him. Gradually the rights the Jew could enjoy became fewer and fewer until at last in England in 1290¹ and in Spain in 1492 and in other countries in other years of this period, "there was no place for the Jew, religiously, financially or politically."² During the Middle Ages of Anglo-Jewish history, it has been held that no Jews lived in England. It is reasonable to suppose that such was the case. But Lucien Wolf gives his findings³ as a result of a careful investigation with the facts of this period that relate to the Jew, and points out that Jews did live at this time in England, that Shakespeare knew Jews; that as late as 1650 a Jewish congregation existed in England and that even a Jewish marriage was performed at this time. As for the period following 1656, the rest of this thesis will concern itself.

Regarding this last period, it may clarify matters as well as show an interesting situation to point out that the post-readmission period or modern period of Anglo-Jewish history has three political mountain peaks. They are located strangely enough in the middle of three successive centuries. The dates are 1656, 1753 and 1858. In the middle of the seventeenth century the Jews were readmitted to England.⁴ In the middle of the 18th century the Naturalization Bill⁵ was passed giving full British nationality to the Jew.⁶ In the middle of the 19th century, an act of Parliament was passed giving the Jew full political rights.⁷ All political and civil ~~right~~ and religious disabilities were now almost entirely removed.

1. Graetz: Hist of the Jews.

2. J.Q.R. vol 10 p. 217 art. by Jos. Jacobs already referred to

3. Lucien Wolf: The Middle-Age of Anglo-Jewish History p. 1-29

4. Blunt, p. 69

5. Hyamson p. 275

6. This was repealed, however, the very next session.

7. 34 and 35 Vict. statutes cap. 48

It now remains to consider the various factors that restrained the Jewish gladiators upon the political arena of England to snatch the civil, religious and political rights from the ferocious beast of public opinion and legislative enactments that persistently resisted all attempts to open its jaws and cast to the winds the various restraints. But the Jew was on the side of what is right and what is just. Equality before the law is not a fiction. It is a reality that must be enjoyed by all of God's children. England was mistaken when she thought it was un-Christian to grant equal privilege to the Jew. Nothing could be more Christian than to be tolerant. This thesis will consider the factors that led to emancipation from the various disabilities. Then it will point out the nature of these disabilities and the history of the attempts to acquire full political rights. Such is the general outline of this thesis.

CHAPTER II**

DEFINITION OF TERMS

It would be clarifying at this point to define the terms used. The status of an individual may be considered from many angles. It may be viewed from his religious, economic, civil or political activities. More classifications could be made as for example, from his social, intellectual or aesthetic interests, but all these and others can be subjoined under the above classification. The validity of such a classification is apparent. Very often they are confused. The reason for such confusion is the fact that life is an incomprehensible complex of interests and desires that interpenetrate and are interdependent. This thesis is restricted to the political aspects of the status of the Jew in England. Hence it seems advisable to define such a status very clearly.

"Politics in its true original meaning is a term which comprehends everything that concerns the government of the country."¹ A political right is one "exercisable in the administration of government."² ---"which consists in the power to participate directly or indirectly in the establishment or management of the government; those rights which belong to a nation; or to a citizen; or an individual member of a nation; so distinguished from civil rights, namely local rights of a citizen."³ "Civil Rights", on the other hand, may be defined as those rights which appertain to a person by virtue of his citizenship in a state or community....those rights which a municipal law will enforce at the instance of private individuals for the purpose of securing to them the enjoyment of their means of happiness..... Civil rights are those which have no relation to the establishment support or management of the government. They include the rights of property, marriage, protection by the laws, freedom of contracts, trial by jury, etc.

** THE CIVIL STATUS OF THE JEW WAS CONSIDERED IN A THESIS WRITTEN BY PHILIP WATERMAN IN 1918, IN PARTIAL FULFILLMENT OF REQUIREMENTS FOR GRADUATION FROM THE HEBREW UNION COLLEGE. IN THAT TREATISE HE OMITS THE TREATMENT OF THE POLITICAL STATUS OF THE JEW IN ENGLAND AND MAKES SPECIFIC MENTION OF THAT FACT.

(for other notes see following page)

As sometimes stated, they consist in the power of acquiring and enjoying property, of exercising the paternal and marital powers and the like.... They are distinguished from natural rights which would exist if there were no municipal laws, some of which are abrogated by municipal law..... They are also distinguishable from political rights which consist in the power and participate in the establishment and management of government"⁴

Thus we see that the political status of the Jew in England is clearly distinguishable from his civil status and therefore the consideration of civil status is not within the province of this thesis. Lucien Wolf says: "The Law of nearly every civilized country recognizes two forms of status, a political status or national character, in virtue of which an individual becomes a citizen or subject of a particular state, and at once entitled to its protection and liable to the obligations incident to allegiance; and a civil status, in virtue of which he becomes clothed with certain municipal rights and duties." H.S.Q. Henriques, eminent

NOTES CARRIED FROM PREVIOUS PAGE:

1. Cyclopaedia of Law and Procedure pge 909
2. People vs Tool, 35 Colo p. 239
3. Cyclopaedia of Law & Procedure vol 31 p. 908
4. Corpus Juris vol 11, p. 800
5. Status of the Jews in England after the Re-Settlement..vol 4 p 177 of J.H.S.E. of Lucien Wolf

• General Notes:

1. In Udney vs Udney, Law Reports, vol I, House of Lords, Scotch Appeals, p. 457, it says: "The Law of England, and of almost all civilized countries, ascribes to each individual at his birth two distinct legal states or conditions; one by virtue of which he becomes the subject of some particular country, binding him by the tie of natural allegiance, and which maybe called his political status; Another, by virtue of which he has ascribed to him the character of a citizen of some particular country, and as such is possessed of certain rights, and subject to certain obligations, which latter character is the civil status or condition of the individual and may be quite different from his political status.
2. "An alien has no political rights, but many, if not all, civil rights." - - Andefson's Dictionary of Law. p. 905.

scholar in the history of English law, makes a similar distinction by including in civil rights "the power to protect from wrong both person and property, and political rights the power to take part in the legislation and government of the country"¹ In view of the fact that a clear definition of the term political rights is so important, I wish to make one more distinction. The political rights are not the same as legal rights. The latter consist in the capacity of an individual to control the actions of another by enlisting the assistance of the state. Such a right may be enforced in a civil action.²

What now remains is to investigate the history of the Jews in England from the time of the readmission to the time of the complete emancipation and to point out the political privileges and disabilities until the Jew is placed, by acts of Parliament upon an equal political plane with all other inhabitants of England

1. "The Civil Rights of English Jews". JQR. vol 8 vol. 8 p. 40 ff

2. Cyc of Law & Procedure vol 25 p. 179

CHAPTER III

CONDITIONS DETERMINING POLITICAL STATUS OF THE JEW IN ENGLAND.

To understand the political status, three matters ought to be discussed, viz: the difference between an actual and a legal settlement; the relation of Church and State during the period covered by this thesis; and the nature and significance of oaths in their relation to the political conditions. An actual settlement is one thing and a legal recognition of the settlement is another. The Jew never ceased to live in England.¹ The number may have been small. They lived somewhat as Jews do today in Mexico City and in other metropolitan cities of South American countries. They are not known as Jews. They are known as Americans, Englishmen, Frenchmen or Italians. It often happens that a French Jew and an American Jew may be commercial friends for many years and neither know that the other is a Jew. Such must have been the situation in England. The Jew appeared as a Spaniard or Portugese or Hollander, etc. It was dangerous to appear otherwise. Thus an actual settlement existed. Such a settlement was not legally recognized until November 13, 1685.² When David Abarbanel Dormido arrived in England in 1654 with Samuel ben Israel his Nephew,³ and he presented a petition to Oliver Cromwell and the council for re-admission of the Jews, it was well known that he was a Jew. When the petition was not granted, he remained in England and engaged in trade. Next came Menasseh ben Israel in 1655 with his petitions. They were not granted. Menasseh ben Israel published his "Vindiciae Judaeorum". To present such a literary product combined with the fact that Oliver Cromwell and others favored the resettlement of the Jews shows that the inhabitants were accustomed to

1. R.J.E. - Lucien Wolf ibid

2. L.R. (1900) 2 Chancery Division p. 490 where in DeWilton vs Montefiore Justice Stirling says: "from that time forward (Nov. 13, 1685) the Jews appear to have been permitted to reside in England and to practise the rites of their religion...."

3. Jewish Encyc. vol 4 p. 641

the presence of Jews. This shows the difference between what is on the law books and the attitude of society toward them.¹ Until Nov. 13, 1655 when the special Council of lawyers, divines and merchants were assembled to decide upon the legality of admitting the Jews to residence in England, it was thought that there was a legal bar. When the matter was discussed at Whitehall the merchants objected very vehemently. It can readily be seen why they should oppose the coming of the Jews. They feared what the merchants in America fear today. The reason for ~~drinking~~ drastic measures for restricting immigration into this country given by the economic interests is that these immigrants will flood the land and take away the bread and butter of the inhabitants. History shows that no such thing follows immigration. After the Jews came to England and for that matter to other countries, prosperity ensued. So in 1655 in England. The economic interests lacked the proper vision and foresight, and possessed the uncalled for fear that the country would be ruined. The Divines on the other hand were somewhat divided. Some believed that to permit Jews to live in England, in a Christian country² would contaminate the land. Some believed that the Jew should be encouraged to enter, so that they might be converted and thus hasten the advent of the Savior. Or they believed that before the Messiah can return to earth, the Jew must be scattered all over the world and to prevent the readmission of the Jew would mean to hold back the day when Jesus shall reappear. The judges, however, argued that since the proclamation of expulsion was not an act of Parliament (it cannot be found in the statute books) the Jews can not be legally held out. Some argued that the proclamation was an edict of Edward I. In that case, with the death

1. cf Hyamson p. 201

2. This statement was disputed many times during the debates in Parliament between 1830-1858 by non-Jewish proponents of the removal of Jewish disabilities.

of the sovereign, his decrees ceased to have force. Thus there was no legal bar to admission of Jews.¹ Therefore we see that an actual settlement and a legal settlement are not the same. In discussing the political rights of the Jew at the time of the readmission, we must be cognizant of the facts just shown. Actually the Jews possess rights. The difficulty was that the non-Jews would not permit them to practise these privileges. When Cromwell and Charles II gave privileges they were not in reality giving anything to which the Jew was not entitled. They merely prevented Parliament from enacting restrictions. To repeat the fact that legally the Jew suffered no restrictions does not mean that actually he was not disabled. The classes in England who ruled were very slow in removing disabilities. They purposely upheld acts of Parliament, which were not intended against the Jews, but which did work a hardship on the Jew. The decision made by the Council at the Whitehall assembly just mentioned was really a charter to Jews who hitherto lived in secret and to the newly arrived avowing Jews.² Thus we see that there is a difference between an actual settlement and the legal recognition of the same which grants civil and political rights. To understand the political status of the Jew, one must understand these conditions. As a matter of fact it should be noted that the Jew at this time had no desire to take any part in the political life of the country, which under the declaration of Indulgence (of Chas II) they might have done. For not only were they for the most part aliens and wholly absorbed in commercial enterprise, but one of the ascamoth³ or law of the synagogue strictly forbid its members from taking any part in politics.

1. of Hyamson p. 201

2. R.J.F. (Wolf.)

3. Gaster: The Ancient Synagog p. 88

At the time of the resettlement political status included religious matters. The religious elements in political acts can not be understood unless we realize that church and state were combined.¹ It is therefore interesting to note that many of the political disabilities of the Jew were due to an erroneous principle of government. For centuries the belief existed that only by exclusion, by giving public employment to conformists only can the ideals and freedom of England be preserved. The consequences of such a belief led to the many civil, political and religious disabilities imposed not only upon the Jews, but upon the Catholics and the Protestant Dissenters as well. Therefore, if we constantly remember that the Church and State were one in England, then we can understand why the Jews suffered.

The next matter that must be considered is that of the oaths. This is related to the religious elements in the political status and it issues out of the popular and prevalent notion of the time that church and state were a unit, or should be so. Without an exposition of the English oath, one can not fully appreciate the significance of the political restrictions that existed down to the last quarter of the 19th century. It was the passing of the Promissory Oaths Act, 1871² that marked the beginning of a period of complete emancipation for the Jew³ in England.⁴ For until 1871 and from a generation preceding that of the readmission of the Jews to England these oaths acted as a political disability in that the contents of the oath and the manner of administering the same made it

1. "The principle was that, inasmuch as the State recognized the religion of the Church of England as being the one true form of religion, no state duties of importance should be entrusted to those who did not profess membership of that church."....p. 119 vol 4 J.H.S.E.
"Sir I.L. Goldsmith & the Admission of the Jews of England to Parliament"...D.L. Abrahams.

2. 34 and 35 Vict. Cap. 48

3. i.e. insofar as the oath per se ~~acted~~ acted as a barrier

4. I am disregarding subsequent acts that removed educational disabilities etc.

impossible for a conscientious Jew to take it.¹ To hold any office that meant partaking in the government of the people, the Oaths of Supremacy, Allegiance and Abjuration had to be taken.² The refusal to take same incurred punishment.³ The famous case of Miller vs Salmons⁴ of the year 1852 illustrates this point. True these oaths were not directed against Jews as such, nevertheless it had the same effect upon Jews as upon Protestant Dissenters and the Popish recusants⁵ against whom they were directed. The intention of the Acts of Allegiance, Supremacy and Abjuration which contained the obnoxious oaths were to prevent non-Conformists from political power. Though no Acts were passed that were intended against the Jews, yet the leaders did not hesitate to apply existing acts against the Jews, even those people who proclaimed to be friendly disposed toward the Jew.⁶

At first the oath of Allegiance was bound up with the system of feudalism. It concerned itself with the relationship of vassal to Lord. Later, however, when England removed the yoke of foreign rule, whether ecclesiastical or lay, it constructed an oath of Allegiance to the Crown of England, ~~stating~~ stating specifically adherence to the King, and to those who were to succeed him. Statutes embodying those ideas were

1. I Geo Ist c. 1,3,8,16,17.

2. J.Q.R. vol 19 p. 298

3. I Geo I St. 2, c. 13

4. In Exchequer Reports Vol. 7 p. 475 ff

5. Following the Gunpowder Plot in 1606, Special legislation was enacted against the Jews.

6. Exchequer Reports. vol 7 p. 542

passed during the reign of Henry the Eighth¹. 25 Henry the VIII c. 22 deals with the king's succession, declaring which of his wives shall be recognized as the one from whose body the issue shall be regarded as next to rule; prohibiting slander of the king and demanding an oath to be taken by all to assure him of this. 26th Henry VIII c. 2 declares² that an oath of obedience to the King be made, and to the heirs of his body, stating that "any former oath shall be void and annihilate". This oath ends³ "so helpe you God all Sayntes and the Holye Evangelystes". Such an oath could not be taken by a conscientious Jew. It must be noted that this oath was not intended for a Jew. Yet it is important because this oath serves as the first one and the fountain from which sprang later disabilities.

28th Henry VIII cap 7. sec 24 deals⁴ with a specific oath declaring obedience to the King Henry and to his issue from his wife Jane. It is called an "Act concerning the succession of the Crown." 28 Henry VIII c. 10 declares that no one shall "extol the authority of the Bishop of Rome." Such oaths shall be deemed void. Henceforth the King of England shall be regarded as chief authority of the Church of England. There is little variation from the former oath except that Queen Jane is substituted for Queen Anne. A new Oath of Allegiance was appointed and it was stated that to refuse to take it "should be deemed and adjudged high treason." This oath ends just like the previous one and so the same comment holds.

35 Henry VIII⁵ cap. 1 sec. 11 is also an "Act for the establishment of the King's succession." It contains an oath declaring that the Pope have no more dominion over a subject of England. It affirms the establishment

1. Passed in the year 1533

2. Passed in the year 1534

3. P. 82 in Pollock's "Essays in Jurisprudence and Ethics"

4. Passed in the year 1536

5. Passed in the year 1543

of the King and his successors and accepts them as "supreme head in earth under God of the Church of England and Ireland and of all other his Highness' dominion". It ends with the same phrase as the previous oaths. This oath remained in force until 1553 when Mary's accession to the throne took place. She abolished all statutory treasons not within the statute of Edward III by which the offence of high treason was and still is defined. Since this was removed, it made the previous oath a dead letter since the penalty for not taking it or observing it was removed.¹

All the above statutes were passed during the first half of the sixteenth century. If any Jews lived in England at the time, they as subjects would have to take these oaths. I can see no reason why such oaths of Allegiance could not be taken by Jews if the last clause "so helpe me God, all saynts and the holy Evangelists" of the oath were removed.² However, since all these statutes were repealed during the short reign of Queen Mary, who was an avowed adherent of the Pope and the See of Rome, the only interest it holds for us is to show us the origin of an institution that was almost the sole cause, at least the most important cause for the inability of the Jew to share in the public life of England. As late as the Spring of the year 1858, one of the chief obstacles to a Jew taking his seat in Parliament was the form of the oath he was compelled by law to take before he could become a member of the national legislature.

The next statute of importance containing an oath is that of 1 Elizabeth, c.i. s. 19 passed in the year 1558. It contained an oath which was a necessary prerequisite for holding public office. It is entitled "An Act to restore to the crown and ancient jurisdiction over the state ecclesiastical and spiritual and abolishing all foreign powers

p. 183 in Pollack's Essays in Jurisprudence and Ethics.

2. 35 Henry VIII, c.I. s. 11

2.

repugnant to the same." This Act though passed a century before the re-admission of the Jew, is of great importance to the Jew, since it is the first act which led to legislation that subsequently included the obnoxious clause. Furthermore, it contains the thought that the Queen must be regarded as the spiritual head. This act of Supremacy could not be subscribed to by either Catholic or Jew. It was directed against the Catholic yet its influence extended to the Jew. Since this oath is of historical interest showing the line of development of what later became a yoke upon the political shoulders of the Jew during the next three centuries, I deem it of interest to quote the oath in its original form.¹

"I.....do utterly testify and declare in my conscience that the Queen's highness is the only supreme governor of this realm, and of all other her highness' dominions and countries, as well in all spiritual or ecclesiastical things or causes, as temporal; and that no foreign prince, person, prelate, state or potentate hath or ought to have any jurisdiction, power, superiority, pre~~h~~eminence, or authority ecclesiastical or spiritual, within this realm; and therefore I do utterly renounce and forsake all foreign jurisdictions, powers, superiorities and authorities, and do promise that from henceforth I shall bear forth and true allegiance² to the Queen's highness, her heirs and lawful successors, and to my power shall assist and defend all jurisdictions, pre~~h~~eminence, privileges and authorities granted or belonging to the Queen's highness, her heirs and successors, or united and annexed to the imperial crown of this realm, So help me God, and by the contents of this book."

1. 1 Eliz. C. 1, Sec 19

2. This is found in 2 1 Eliz c 1. Sec. 19 also

This oath had to be taken by ecclesiastical persons and ¹ "all and every temporal judge, justice, mayor and other lay or temporal officer and minister and every other person have your highness' fee or wages". This is called the Act of Supremacy. This Act is the forerunner of the Act passed in 1563 known as 5 Eliz. c. 1 which was more stringent and was extended even to persons practising law. This stood until the Gunpowder Plot of 1606 which contained for the first time the obnoxious words that stood as a large impassable mountain on the road of political emancipation of the Jew. Not until the ² middle of the nineteenth century was that clause removed. Thus we see the importance of the Act passed in the first year of the reign of Queen Elizabeth in 1558.

And now comes the Act 3 Jac. I, c. 4, s. 15³ containing a wordy oath of Allegiance, Supremacy and Abjuration. It is often called "Oath of Allegiance" or "Abjuration". On the Statute book it is called "An act for the better discovering and repressing of recusants." It is far more stringent than the act passed a half century earlier.⁴ This oath in itself has no bearing on the political status of the Jew. The contents⁵ referring to the supremacy of the King of England as against all other powers on earth to the expression of allegiance to him; and to the express mention of abjuration of the Pope, all could be taken by a Jew if necessary. There is one clause in this act which cannot be taken. It includes the obnoxious words "upon the true faith of a Christian." The clause as found in the Statute, 3 Jac. I, c. 4, s. 15 par. 5 reads as follows:

1. 1. Eliz. c. 1, s. 19.

2. 21 and 22 Vict c. 48

3. 1606

4. 1 Eliz. c 4, s. 19

Pollack p. 187 ..Note 5

"And all these things I do plainly and sincerely acknowledge and swear according to these express words by me spoken, and according to the plain and common sense and understanding of the same words, without any equivocation; or secret reservation whatsoever, and I do make this recognition and acknowledgement heartily, sincerely and truly UPON THE TRUE FAITH OF A CHRISTIAN, so help me God."

This last clause was intended against popish recusants. Now Jews were meant by it. In fact few if any lived in the realm. Now future oaths contained this clause. The influence of this Act of Parliament passed in the year 1606 is that the obnoxious clause was inserted in subsequent oaths and it became the tremendous obstacle to the Jew for years to come.

In 1688 an act was passed¹ entitled "An Act for removing and preventing all questions and disputes....." in which it substituted new oaths for those who are to sit in both houses of Parliament. Section 5 reads "And it is hereby further enacted and declared by the authority aforesaid that the oaths above appointed by this act, to be taken in the stead and place of the oaths of allegiance and supremacy, shall be in the words following ~~as follows~~ and no other". Section 6 gives the form of the oath of Allegiance.. "I, A.B. do sincerely promise and swear, that I will be faithful, and bear true allegiance to their majesties King William and Queen Mary, so help me God." Section 7 gives the form of oath of Supremacy as follows: "I, A.B. do swear that I do from my heart abhor, detest and abjure as impious and heretical, that damnable doctrine and position that princes excommunicated or deprived by the Pope, or any

1. I Wm and Mary c. 1, ss. 6 and 7

authority of the See of Rome, may be deposed or murdered by their subjects.... and I do declare that no foreign prince, person, prelate, state or potentate hath, or ought to have, any power, jurisdiction, pre-eminence, or authority, ecclesiastical or spiritual within this realm; so help me God."

This oath in the form given could have been taken by a Jew had he been elected to Parliament. It was only later that an oath was made which he could not take.

Immediately after this another act was passed¹ in which the old oaths of Allegiance² and Supremacy³ were abrogated and which provided that it be taken by all who shall hold an office or employment under the Crown.⁴ This oath ended "So help me God, etc." Now Pollack says⁵ the "etc" means "contents of this book". Were this true then a Jew could not take it.^{If} Pollock is correct in his interpretation then no Jew would hold any political office at this time because the holding of such an office required an oath and that he could not take. But if Mr. Pollack is incorrect in his interpretation of "etc" after "so help me God" then we can assume that there was nothing in the oath which would make it impossible for the Jews to take and consequently hold office.

It might be noted here that as for the manner of taking the oath is concerned we have instances before 1688 that show that a Jew could take them. In 1657 the Christological oath in case of Solomon Dormido was waived. This was not for a political matter but for a civil matter rather. Yet it is of interest.

1. 1 Wm & Mary c 8, Sec 1 ff

2. 3 Jac 1. c. 4

3. 1 Eliz. I c. 1

4. Sec. 5

5. See Pollock opus cit p. 189

In case of *Pobely v Landston*¹ which was tried in Court of King's Bench in January 1667, several Jewish witnesses were produced and the chief Justice swore them upon the old Testament and the correctness of the Chief Justice was affirmed on appeal by the other Judges. Thus we see a liberal tendency as well as a stringent one regarding the Jew and the oaths.

After the death of James II in 1701² an important oath³ of abjuration was introduced that holds down to a very late time. This was imposed upon various classes of persons, including peers, members of Houses of Parliament and all holding any public office or high position under the crown. This contained the clause which was first put in the Old Oath of Obedience framed in 1685, viz, "upon the true faith of a Christian". Again this clause was not intended against the Jew, yet it worked as a handicap to him and was not relieved until 1858.³

The Oath of Abjuration as altered in 1765⁴ existed for another century and was the direct cause for the political disability that was not removed until the latter part of the nineteenth century. Because of its importance it is here copied:⁵

"I, A.B., do truly and sincerely acknowledge, profess, testify and declare in my conscience before God and the world, that our sovereign lord, King George, is lawful, and rightful King of this realm and all other in his Majesty's dominions and countries thereunto belonging. And I do solemnly and sincerely declare that I do believe in my conscience That not any of the descendants of the person who pretended to be prince of Wales during the life of the late King James the Second, and, since his decease, pretended to be, and took upon himself the stile and title of

1. 2 Keble p. 314

2. 13 and 14 Wm III c 6

3. by the Jewish Relief Act, 21H.22 Vict. c 47

4. 6 Geo III, c. 53, s 2.

5. The Jews and the English Law, p. 226-7

King of England, by the name of James the Third, or of Scotland, by the name of James the Eighth, or the stile and title of King of Great Britain, hath any right or title whatsoever to the crown of this realm, or any other the dominions thereunto belonging; and I do renounce, refuse and abjure any allegiance or obedience to any of them. And I do swear, that I will bear faith and true allegiance to His Majesty King George, and him will defend to the utmost of my power, against all traitorous conspiracies and attempts whatsoever, which shall be made against his person, crown, or dignity. And I will do my utmost endeavor to disclose and make known to his Majesty, and his successors all treasons and traitorous conspiracies which I shall know to be against him or any of them. And I do faithfully promise to the utmost of my power, to support, maintain, and defend the succession of the crown against the descendants of the said James, and against all other persons whatsoever, which succession, by an act intituled "An Act for the further limitation of the crown, and better securing the rights and liberties of the subject" is and stands limited to the Princess Sophia, electoress and dutchess dowager of Hanover, and the heirs of her body being protestants. And all these things I do plainly and sincerely acknowledge and swear, according to these express words by me spoken, and according to the plain common sense and understanding of the same words, without any equivocation, mental evasion or secret reservation whatsoever. And I do make this recognition, acknowledgement, abjuration, renunciation, and promise, heartily, willingly and truly, upon the true faith of a Christian."

No Jew could take this oath in this form which remained until 1867 when the Office and Oath Act was passed which did not ~~ex~~ contain the obnoxious words.¹

1. 30 & 31 Vict c. 75 s 5.

Some relief, however, was found for those positions which required only an oath of Allegiance. By the Indemnity Act of 1727¹ one did not have to take oath until six months after entering office. This Act was passed annually until 1868 when the Promissory Oaths Act² was passed. Because of the Indemnity Act, a Jew or any non-Conformist might take office and remain in it at least six months. That was the situation in 1835 when Mr. David Salomons was elected sheriff of county of London. He could take the office, though it would have meant that he could not take the oath of that period.³ However, in the cases where a Declaration was required before entering the office, then the Indemnity Act was of little use; because 9 Geo IV, (1828) required that this declaration be made before entering office.

The Plantation Act of 1740⁴ permitted those professing the Jewish religion to omit the words "upon the true faith of a Christian" when they applied for British nationality provided they dwelt in the American colonies for a period of seven years.

In 1829⁵ an act was passed which altered the oaths but this was designed for the benefit of the Catholics. It was exactly thirty years before the same slight change was made so as to apply to Jews.

The Oaths Act⁶ passed in 1838 enabled oaths for any purpose to be taken in any way binding upon the conscience of him who takes it. Thus a Jew could take any oath upon the old Testament if he wished.

1. 1. Geo II, stat 2, c, 23

31 and 32 Vict c. 72...note 2

3. There are more details of the case which will be dealt with later

4. 13 Geo II c. 7

5. 10 Geo IV, c 7

6. 1 and 2 Vict c. 105

In 1858¹ an Act was passed in Parliament which simplified form of oath. It substituted a single oath for the three oaths of Allegiance, Supremacy and Abjuration, but it had to be made "upon the true faith of a Christian." The very next act^{1a} is the Jewish Relief Act, which provides that these words may be omitted by a Jew. By their last Act, either house of Parliament was empowered to permit by resolution "a person professing the Jewish religion otherwise entitled to sit and vote in such house", to take the oath, with the omission of the words "upon the true faith of a Christian." It was also provided that in all other cases where the oath of allegiance was required to be taken, by a Jew, these words might be omitted.² The form of this new oath of 1858 is as follows:--

"I, A.B. do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, and will defend her to the utmost of my power against all Conspiracies, and attempts whatever which shall be made against Her Person, Crown or Dignity, and I will do my utmost Endeavor to disclose and make known to Her Majesty, Her Heirs and Successors, all Treasons and traitorous conspiracies which may be formed against Her or them, and I do faithfully promise to maintain, support, and defend to the utmost of my Power, the Succession of the Crown, which succession by an Act, entitled "An Act for the further limitation of the Crown, and better securing the rights and liberties of the Subjects" is and stands limited to the Princess Sophia, Electress of Hanover, and the Heirs of Her Body being Protestants, hereby utterly renouncing and abjuring any obedience or Allegiance unto any other Person claiming or pretending a right to the Crown of this realm; and I do declare that no foreign Prince, Person, Prelate, State or Potentate hath or ought to have any jurisdiction, Power,

1¹ 21 and 22 Vict. c. 48

2a 21 and 22 Vict c. 49

2. 21 and 22 Vict. c. 48

Superiority, Pre-eminence, or authority, ecclesiastical or spiritual, within this realm; and I make this declaration upon the true faith of a Christian, so help me God.¹

Since that day as modified by the very next Act, Lord Rothschild was enabled to take his seat and a Jew could enter parliament. But there were some higher offices under the Crown that could not yet be held.² These disabilities were not removed until the Act of 1871.³

In 1866 by the Parliamentary Oaths Act⁴ all previous legislation was removed.⁵ This applied only to parliament. The form of this oath is as follows:

"I, A.B. do swear that I will be faithful and bear true allegiance to her Majesty Queen Victoria; and I do faithfully promise to maintain and support the Succession to the Crown, as the same stands limited and settled by virtue of the Act passed in the reign of Wm II entitled "An Act for the further Limitation of the Crown and better securing the Rights and Liberties of the Subject" and of the subsequent Act of Union with Scotland and Ireland, so help me God."

This act removed every previous statute regulation that could have been a hindrance to the Jew in his political right to sit in Parliament.

In 1867 Office and Oaths Act^{5a} still shortened and simplified oaths to be taken by office holders. It authorized the new parliamentary form of oaths to be taken in all cases where the oath of allegiance was required as a qualification for office.⁶

In 1868 the Promissory Oaths Act⁷ established three new forms of oath and are still in force and none are objectionable to the Jew. a

1. 21 and 22 Vict. c. 48

3. 34 and 35 Vict. c. 48

2. 21 and 22 vict. c. 49 s. 3

4. 29 Vict. c. 19 s. 1

5. See Pollack p. 195

5a 30 and 31 Vict. c. 75 s. 1

6. Pollack p. 196

7. 31 and 32 Vict. c 72

declaration was substituted for an oath in majority of cases. The oath of Allegiance was reduced by the Promissory Oaths Act to its present, simple form:¹

"I, A.....do swear that I will be faithful and bear true allegiance to her Majesty Queen Victoria, Her Heirs and Successors, according to Law, so help me God."²

This promises nothing that at common law is not the duty of every subject.

The work of simplification was not complete until 1871 when an Act was passed entitled "An Act to repeal diverse enactments relating to oaths and declarations which are not in force; and for other purposes connected therewith"² This act formally and specifically repealed all former restrictions and expunged them from the Statute Books of England.

Thus we have developed the nature and the history of oaths in England as it relates to the political status of the Jew. The matter of the relation of the oath to the civil status of the Jew was not considered. This discussion is necessary as a background to the subject on hand and in a way already pointed out the nature of the political status of the Jew.

1. 31 and 32 Vict. c. 72 s. 2

2. 34 and 35 Vict. cap. 48.

CHAPTER IV

AN ANALYSIS OF THE POLITICAL STATUS OF THE JEW IN ENGLAND FROM THE RE-ADMISSION TO THE EMANCIPATION

It now remains to consider the various aspects of what is regarded as political status as distinct from civil status. Under this heading we shall consider the following subjects: 1. The Right to acquire British Nationality. 2. The right of exercising the franchise. 3. The right of being a member of, and holding office under a municipal corporation, *or the Council* 4. The right of being a member of and sitting in Parliament. 5. The right to practise law.

But before an enumeration and an exposition of the various rights granted and withheld from the Jew can be made, it is necessary to consider briefly the terminus ab quo and the terminus ad quem. There is a difference of opinion as to just when the Jews actually resettled in England. If we mean by re-settlement, the arrival of individual Jews to England after the expulsion that took place in 1290, then we might set the date at 1635. In that year Antonio Fernandez Cervajal came to England and shortly thereafter became an influential inhabitant. He even acquired letters patent of denization¹ before Menasseh ben Israel arrived. Furthermore other Jews lived and traded in England before the middle of the century. "From time to time Individual Jews landed on the shores of England but never attempted to establish a Jewish community or to celebrate their worship publicly."² Yet it must not have been known, generally, that the Jews lived in England before 1655. In 1634, Laud in true Torquemada style issued a proclamation against all who held views not in harmony with those of the established church. He mentioned all heretics, but left out the name of the Jews.³ He surely would not have overlooked this wonderful opportunity

1. J.E.E. 3:595

2. L.Wolf..Middle Age of Anglo Jewry.

3. J.E.E. p71

to extend his persecutions to the Jews. Since we know that Jews did live there¹ at this time, the only conclusion that can be drawn is that the Jews did not live openly. As a matter of fact after 1630, because of a treaty made between England and Spain, the Jews could settle as Spaniards and be connected with the Spanish embassy. By doing this he could avoid the laws against recusants. Antonio Fernandez Carvajal came to England in 1635 and enjoyed just such a status. An attempt was made about a decade later to prosecute Carvajal and others as recusants. But their appeal under the treaty with Spain was granted.² January 5, 1649 a petition for the re-admission of the Jews to England was made³ but not granted. Though there was a popular understanding that Jews were readmitted at this time, this was not so. The fact that the petition was made and the contents show that the Jew had no political status at this time; the fact that David Abarbanel Dormido⁴ in 1654 presented another petition for re-admission and that Menasseh ben Israel, the following year also presented a petition for readmission proves that in January 1649 the Jews were surely not re-admitted. I do not mean to say that Jews did not live in England. The fact that David Abarbanel Dormido⁵ did live openly as a Jew⁶ and even prospered in England shows that Jews could live there. In 1654 Samuel ben Israel, son of Menasseh ben Israel, and who accompanied his uncle to England received a degree of doctor of philosophy and of medicine from Oxford.⁷ The point is that there was not yet a formal readmission. The fact that these could live unmolested as Jews may be due to the amendment of the laws against recusants made by the independents in 1650 which permitted some toleration. The ordinance of September 27, 1650⁸ repeals all statutes relating to

1. of Wolf, M.A.A.J.

2. J.H.S.E. p. 21

3. J.H.S.E. A Petition - from Johanna and Ebenezer Cartwright 1649 - Hyamson p. 169

4. Hyamson p. 194

5. Hyamson p. 195

6. R.J.E. p. 9

7. R.J.E. p. 10

8. J.Q.R.

compulsory church attendance in Act of Conformity¹ yet by the "terms of Instrument fixed December 16, 1653, in articles, 35, 36, 37 provide the Christian religion shall be publicly professed, etc."² We see that freedom of worship was not extended to all. Yet Jews were encouraged. The condition or status of the Jew at this time was a peculiar one. He surely wasn't officially re-admitted, yet he resided in the land. Then where shall we place the terminus ab quo? Shall it be 1635, the arrival of Carvajal? or 1649 the petition of the Cartwrights; or 1654 the petition of David ^{Bornido} Abarbanel; or 1655, the arrival of Menassah ben Israel?

Before we can decide definitely one more fact must be considered. I refer to the opinion expressed by Lord Justice Stirling in the case of De Wilton v Montefiore³ where he states, by quoting from Lindo vs Belisario, that the legal recognition of the resettlement of the Jew did not take place until Nov. 13, 1685.⁴ This is a very late date. It really marks the last attempt to prevent the Jews who had already an organized community from continuing their residence in the country. On this day legal recognition of the resettlement may have taken place. Opposite this fact we must not forget the Whitehall conference of November 13, 1655, thirty years earlier, at which time a special council of lawyers, divines and merchants, thru its judges, decided that there was no legal bar to the return of Jews to England.⁵ The year 1685 is too late to be regarded as the time of the re-settlement.

In view of the above facts, I think we can conclude to place the

1. 1 Eliz. c. 2; in 35 Eliz. c. 1; and in 23 Eliz. c. 1.

2. J. & E. L. p. 78

3. Law Reports (1900) 2 Ch 486

4. J. & E. L. p. 49

5. Hyamson, p. 201

the terminus ab quo or the date of readmission.at 1656, commencing either with the arrival of Menasseh ben Israel or with a few days later, when the decision was made by the judges at Whitehall that there is no legal bar to the admission of the Jews in England.

The terminus ad quem is not so difficult to decide. In the year 1858, by the Act of Parliament known as the Jewish Relief Act¹ the Jew could sit in Parliament and therefore he enjoyed full political rights. It was not until 1871, however, that every office except that of the throne itself was thrown open to him. The passing of the Promissory Oaths Act of 1871 gave the Jew equal political status with every other citizen of Great Britain.² This act marks the Terminus ad quem.³

1. 21 and 22 Vict. c. 49

2. 34 and 35 Vict. c. 48, s. 1

3. *J.R. J. & F.L.P. & C.*

CHAPTER V

THE ACQUISITION OF THE RIGHT OF BRITISH NATIONALITY.

The chief political right that the Jew was compelled to acquire was that of nationality. Without it he could not vote. Without it he could hold no office of trust under the Crown; without it he could not share in governing the law of the land. No country permits aliens to legislate. The most they can enjoy is the common civil rights such as that of residence, trade, marriage and the like. Until 1825,¹ except for a few days during the last few days of December, 1753, and the first few days of the next year until the Naturalization Act of 1753 was repealed² the Jew was unable to acquire the right of British nationality, except he be willing to take an oath that contained a clause which was obnoxious to his conscience.³

The Jew in England was an alien unless he received letters patent of endenization or he be naturalized. Some even regarded him as an alien enemy perpetually.⁴ The majority of Jews were however aliens.⁵ Before we can proceed, it is necessary to define the term. According to the ancient English law all those are aliens who are born outside the allegiance of the Crown.⁶ England adopts the principle of *jus soli* as opposed to the rival doctrine of *jus sanguinis*. By the former principle all those who are born on the soil that is under the dominion of the King are regarded

1. 6 Geo IV, c 67 was passed which abolished necessity of taking sacrament as a preliminary to naturalization.

2. 26 Geo II c. 26

3. I am referring only to alien Jews on the mainland and not to the special conditions under which a Jew might be naturalized. This will be taken up later.

4. ~~J.E.R.~~ *J. & F. L p 189*

5. J.E. p. 169

6. H.S.Q. Henriques, "Aliens & Naturalization" p. 29

as a natural born subject and as such entitled to all the privileges of such. By the later^t principle the nationality of children is determined by that of the parents. The Jew can be grateful that England does accept the former principle, for by virtue of it, the Anglo-Jewish community was able to extricate itself from the debris of intolerable and unjust disabilities.¹ Until the readmission, the Jew was not regarded as such and therefore it matters little whether he was an alien or not. But after the readmission, the Jew wished to share equal rights in his newly adopted country and therefore it became a problem for him.

There were three ways of acquiring British nationality. The first way was to be born on the soil. A Jew born in England could therefore enjoy all the rights of an Englishman, it would seem. The difference in religion, however, imposed disabilities upon Jews born in the land. To enjoy the political rights it was necessary to take oaths which were so designed as to make it impossible for a Jew to take and therefore, though born in the land and so not an alien, he could not enjoy what of right he should be enabled to enjoy.

The second way of acquiring nationality was by receiving letters patent of endenization from the crown. Such letters might give rights for a specified time, as for example for twenty years, or it might be granted on certain conditions, as for example that the receiver engage in certain trade. Such letters did not grant political rights. His rights could be restricted either by the terms in the letter or by certain Acts of Parliament. A denizen created by a gift of the king is in a kind of middle state

1. J.H.S.E. 1: 134, 135

between an alien and a natural-born subject, and the partakers of both. Special alien duties were imposed upon endenized merchants which were not imposed upon others. The only condition required was that the candidate take an oath of Allegiance in a form acceptable.¹

The third method of acquiring British nationality was by a special Act of Parliament. Until 1609 application for such a right could be made by anyone, but after the Gunpowder Plot, an act was passed² which confined naturalization to Protestants. It was intended to work against the Catholic. This Act required that the candidate take the Sacrament of the Lord's Supper and the Oaths of Allegiance and Supremacy. A conscientious Jew could not do this. The law still existed when the Jew was readmitted. Naturalization by such an Act of Parliament grants full rights of a natural born citizen to an alien. It differs from denization in that it had retrospective effect; the naturalized person being deemed a subject "natura" to all intents and purposes, as if he had been born so. Furthermore he was free from liability to pay alien duties. However, by Act of Settlement,³ his political rights, after 1714 were greatly limited. I Geo. I, St. 2, c. 4 prevented dispensing of Act of Settlement in a private act of Parliament.⁴ The third section of the Act of Settlement⁵ specifies political disabilities both of those who are naturalized by a special act and those who are endenized⁶. This act which was passed in 1701 during the reign of William III excluded, expressly, denizens and naturalized

1. J. & E. L. 237

2. 7Jac. 1. c. 2.

3. 12 and 13 Wm III, c. 2.

4. p. 40 "Aliens & Naturalization" Henriques

5. 12 and 13 Wm III c. 2

6. Henriques "Aliens & Naturalization" p. 18

persons from the exercise of all important political functions by providing that "no person born out of the kingdoms of England, Scotland, or Ireland or the dominions thereunto belonging except such as are born of English parents, shall be capable to be of the Privy Council or a member of either House of Parliament, or to enjoy any office or place of trust, either civil or military, or to have any grant of lands or hereditaments from the crown to himself or to any other or others in trust for him." This would exclude many Jews from enjoying any political power, even if he could acquire the political status of British nationality.

At the time of the readmission, the only Jew who possessed any political status was Antonio Fernandez Carvajal. He received letters patent of denization from Oliver Cromwell in August 17, 1655, a few months before the arrival of Menasseh ben Israel. An excerpt from this letter is of interest here. It says in part¹ that the "said Antonio Fernandez Carvajal, alonso Jorge Carvayall and Joseph Ferdinando Carvayall and every of them respectively at all tyme and tymes from and after the date of these presents duringe their severall and respective naturall lives shall be and shall be adjudged reputed and taken to bee in all and every respect Condicion and degree to all intents construcion and purposes whatsoever as the naturall people of this Commonwealthe and as persons borne within the same." The statement is very inclusive and would entitle him to political rights were he able to enjoy them. It is limited by the clause later in the petition which says they shall "pay to us and our successors all such subsidies, customs and other duties for their wares, goods and merchandize as aliens and strangers do." This limitation makes him different from a natural born subject. Further it seems he had the right to vote from where

1. A reprint found in J.H.S.E. vol 2 pp. 45 and 46

it says "and every of them respectively shall and may from henceforth quietly and peaceably have and enjoy all and all manner of lawful liberties, franchizes and privileges within this commonwealth as if they...had been borne within the same or as any of the naturall people thereof by their being borne within the same do or may lawfully enjoy". Here we see that the first Jew, since the readmission, and since the expulsion in 1290, to acquire the right of nationality, though it was limited, was Antonio Fernandez Carvajal. His two sons also received such a right.¹ Soon thereafter more Jews received similar rights of endenization.

After the accession to the throne of Chas II in 1660 a reaction took place. Petitions were filed by Violet and by the aldermen of the city of London and by others to expel the Jews and to confiscate their property.[#] "Non-conformity with the national church became once more a barrier to national citizenship even in England."²

In 1660 the Navigation Act³ was passed. By its provisions Colonial trade was closed to aliens. Such trade was open however to those who were naturalized or a free denizen.⁴ From this it can be readily understood why so many Jews became denizens at this time.

A curious petition existed that must have been made in 1661,⁵ in which a certain J.J.B. Henriques asked to be naturalized that he might develop some gold mines in Jamaica.⁶

An act was passed in 1663 to encourage the ~~manufacture~~ manufacture of linen in England. This act⁷ opened the opportunity for Jews to acquire British nationality. All that was required was to engage in this business

1. R.J.E. p. 5

2. J.H.S.E. vol III p. 138: Joseph Jacobs - Typical Characters of Jewish History.

3. ~~231 J & E. L. p.~~ 12 Car II, c. 18

4. 231 J & E. L. p. (p. 21 of Aliens and Naturalization)

5. ~~of Henriques~~ A.J. H.S. vol 5 p 45 ff

6. 145 J. & E.L. note

7. 15 Car II c. 15

for three years and then upon taking the oaths of Allegiance and Supremacy, he could enjoy all the privileges of a natural born subject. This act remained on the statute book until 1863, yet it seems as though Jews did not take advantage of it.¹

During the reign of Chas. II and of James II many received patent letters of endenization². During the reign of James II 34 got such letters.^{3a}

During the reign of William III an act was passed which served as a barrier to full nationality rights for more than a century. In 1701 an act known as the Act of Settlement³ was passed which provided that political rights be denied even those who were endenized or naturalized. A few years later in 1714⁴ it was provided that the above mentioned restriction could not be dispensed with in any private Act of Parliament which would grant naturalization. The force of this was not relaxed until 1794⁵ and then it only allowed alien residents in foreign colonies surrendered to His Majesty to trade; and in 1797⁶ which was an act allowing aliens in foreign colonies surrendered to His Majesty to be merchants or factors, etc; and in 1804 by 45 Geo III c. 32 which was similar to the act of 1797; and in 1825 by Geo IV, c 67 in which the necessity for taking the Sacrament as a preliminary to naturalization was abolished. This act comprising the political disability remained as a barrier to every Jew until 1825, except for the few days during which the naturalization act of 1753 was in force.

By statute, the class of natural born subjects was widened, by including those born abroad of parents whose fathers and grandfathers on the fathers side, have been born within the realm.

1. J. & E. L. p. 239

2. J. & E. L. p. 158. Wm Catteret Wells gives a list of 105 in his "On the question whether a Jew can hold land, etc."

2a J. & E. L. p. 158

3. Wm III, 12 and 13, c. 2, s3.

3a I Geo I, c.4.

45 By 34 Geo III, c. 42, s 6

6. 37 Geo III c. 63, s 5.

In 1730 the British nationality ¹Act was passed which provides that children born abroad of natural born subjects are to be deemed as natural-born subjects except those "of parents attainted with treason or in actual service of foreign princes in enmity with the crown." The British Nationality Act of 1772² includes those whose grandfathers were natural born subjects.

The next Act of Parliament that marks an important milestone in the history of acquiring British Nationality for Jews is what is known as the Plantation Act passed in 1740³. It is entitled "An Act for Naturalizing such foreign Protestants, and others therein mentioned, as are settled or shall settle in any of His Majesty's Colonies in America".⁴ It granted rights of naturalization to foreigners who lived in America seven years.⁵ Two sections deal with the Jews.⁶ By section 2 Jews were permitted to omit taking the sacrament. By section 3 the Jew could omit the words from the oath, "upon the faith of a Christian."⁷ Within thirteen years nearly two hundred Jews took advantage of this act.⁷ It was far easier to gain naturalization as we shall see, by reason of this act than by virtue of the one passed in 1753.⁸ For by the former one could be naturalized by merely taking the oaths in the presence of some local official, but by the latter, the only advantage was that the resident ~~was~~ Jew was qualified to ask for a private act of naturalization. To acquire the right of nationality by a special act of Parliament means expense and uncertainty. However, the later is a step forward in that it included all English Jews instead of those resident in the American colonies.

1. 4 Geo II, c. 21

2. 13 Geo III, c. 21

3. 13 Geo II, c. 7, ss 2 and 3

4. J.E.L. 172 b.

5. ~~Hyamson p. 272~~ Picotto p. 67

6. Hyamson p. 272

7. J.H.S.E. p. 157 b. vol 6

8. Hyamson p. 273

We now come to the Naturalization Act of 1753, often known as the Jew Bill. During the Middle of the Eighteenth Century the Jew became the chief topic of discussion in England. His religion, his habits of domestic and of social life, his attitudes to life, his political affiliations and his philosophy of life was discussed and debated by members of Parliament, publicists, clericals and laymen. A vast literature containing the vilest kind of nonsense as well as some able, decent pamphlets relating to the Jew sprang into existence.¹ In addition to this, caricatures, satirical and political prints of the most obnoxious character were produced.² Filthy poetry attacking the person and religion of the Jew appeared in abundance in the contemporary periodicals. A great deal of passion came to the forefront of British national life because the Parliament had the audacity and intelligence to feed to the Jew a crumb of equality and justice. All this stirring up was the result of the introduction and passing of a Bill granting the Jew the right to acquire British Nationality.³

Early in March, 1753 a bill⁴ was introduced in the House of Lords⁵ that would permit persons professing the Jewish religion to be naturalized by Parliament.⁶ The Bill enacted...that persons professing the Jewish religion may, upon application for that purpose, be naturalized by Parliament without receiving the sacrament of the Lord's supper. the said act of the seventh year of the reign of King James⁷ the first, or any other law, statute, matter or thing ~~and~~^{to} the contrary in any wise notwithstanding.⁸ Further, it excluded the clause in the Act of Settlement⁸ which excepted certain political rights. It provided that the candidate must have lived in England for three years. The measure passed thru the various stages

1. J.H.S.E. vol 6 p 178

2. J.H.S.E. vol 6 p 205

3. J.H.S.E. vol 6 p 156 ff: The Jew Bill of 1753, 26 Geo II, c. 26:
Picc. p. 69: Hyamson, p. 275

4. The Jew Bill of 1753, J.H.S.E. vol 6 p. 156, 179.

5. Picc. p. 80

6. J.E. vol 1 p. 172b

7. 7 Jac. 1 c. 4

8. 12 and 13 Wm III, c. 2

in the House of Lords and on April 16, 1753 was sent down to the House of Commons and there passed the first reading. Upon the second reading in the House of Commons opposition commenced but it passed by a vote of ninety five to sixteen. Soon the heat of opposition turned into flames of libel, calumny and defamation. The privilege¹ to be granted was slight, but political and commercial ~~and~~ rivalry needed an excuse; and what is more potent as an agent of dissention than religion? The political leaders in power were doomed to destruction. The bill was used as a means and the Jew as the goat. Numerous arguments, foolish and senseless and ridiculous were conjured up by the opponents of the measure. James Picciotto in his Sketches of Anglo-Jewry² sums up the arguments as follows:- "It is alleged by the opponents of the measure that the naturalization of the Jews was not consistent with the Christian religion, and was repugnant to the constitution of Great Britain. That it would diminish the consumption of ham, bacon and brawn and thus materially injure the trade in those commodities. That it was an act against the will of God; it was flying in the face of prophecy, which declares that the Jews should be a scattered people, without country or fixed habitation, until they should be converted from their infidelity, and gathered into the land of their forefathers; that the Jews would become so numerous as to exclude all Protestants from the home or any other trade. That ~~so~~ many rich Jews would come over to England that they would purchase all the lands in the Kingdom, and influence elections so that no one would be chosen unless in their interest; that they would become members of Parliament themselves, and reach the highest posts under government; that a number of poor Jews would flood the land and devour it like locusts; that they would deprive of bread the natives who

1. Picc. p. 82

2. Picc. p. 82

earn their livelihood by work, or else bring such a mass of pauperism into the country as to greatly impair its resources, spread misery, and seriously augment taxation. That Jew brokers, ^uinsurers and beggars would flock hither, robbing the real subjects of their birth rights, disgracing the character of the nation, endangering the constitution of Church and State and proving an indelible reproach to the established religion of the British realms; That the Jews would multiply in number, increase in wealth, and gain power to such an extent as to acquire great personal importance, introduce universally their customs, and render Judaism the fashionable religion of the English. That they would engross all the foreign commerce of the realm, and that the Spaniards and Portugese would be greatly offended at the refuge afforded in England to a people whom they had driven away from their kingdoms, where they would not be tolerated. That the Jews were more ready than any other people on earth to betray intelligence; and that should a Jew be found in the Councils of the country, or in any branch of government wherein he could arrive at a true state of affairs, it would be in his power to betray the counsels and secrets of the nation to every court in Europe. That to harbour a Jew was, in the words of Innocent III, when he expelled that race from Rome, to receive "mus in pera, serpens ingremio, ignis in sinn". Finally that by bringing the Jews into England with them would be brought the curses that have pursued them through all countries and for so many ages, and the same part would be acted as that of Julian the Apostate when he invited them to gather in his empire and erect a temple."¹ This is a very brief summary of the arguments used in the numerous pamphlets and newspaper articles and debates in Parliament. These ideas were also printed in the form of cartoons, a collection of which is enough to make even the most thick-skinned soul sick. True, many defended the Jew with counter

1. Picc. p. 83

arguments. We have records of petitions signed by prominent individuals urging the passing of the measure.¹ To understand the cause for the great opposition is not difficult. The political leaders in power were opposed and the political tactics of mud-throwing before an imminent election was well known to the executive department of the English unofficial political corporation. What has been revealed to us recently by a close examination of the methods and tactics of political parties is but a remnant of a favorite public sport of by gone days. Even England indulged in it once. Antagonism to Pelham and Walpole engendered antagonism against the Bill. Personal hatred of John Bernard, one of the leaders of the opposition, and one of the members for the City, for Sampson Gideon, undoubtedly one of the wealthiest men in England in that day, one of the successful captains of industry to use a modern phrase, engendered antagonism against the Bill. And objection to the bill fanned the flames of individual hatred and prejudice against the Jew, the one for whose benefit the bill was proposed.

At last upon the third reading the Bill was passed and it received royal assent and became known as 26 Geo II c. 26. This gave the Jew full political rights, but it was not to last long. Justice to the Jew and equality with those who govern a people is too precious a gift for the descendants of Abraham to enjoy. The anti-Jewish party was not satisfied. The fact that this now became the law of the land made no difference. When law and order and justice conflict with unbridled passion for what is unrighteous, the human animal invariably drinks to its fill at the refreshing waters flowing forth from the fountains of iniquity. Consequently it was to be expected that poetry, not lofty, of course, should well out of the great opposition. In "The Jews' Triumph"² a ballad to be said or sung

1. Pico p. 81

2. J.H.S.E. vol 6 p. 167

to the children of Israel on all popular occasions, by all Christian people. London: Printed for Isaac ben-Haddi, in Fleet Street", we read:-

"But Lord, how surpriz'd when they heard of the Newes
That we were to be servants to circumcised Jews,
To be negroes and slaves, instead of True Blues"
which nobody can deny, etc.

.....

That Jews have the Mammon all Christendom knows,
But are not to be trusted, but just as that goes,
For as Gold's to be got they are both friends or foes,
Which nobody can deny, etc.

.....

Why the bishops were mute at what they have preached
Is beyond comprehension, and not to be reached
Except Jews' presentations reverting to each,
Which nobody can deny, deny,
Which nobody can deny."

or from the "Jews Naturalized;¹ or the English Alienated" which opened with the verses:-

"Our rulers have dared the decree to revoke,
Which was in Judea so frequently spoke,
T' incorporate with us that fugitive tribe,
But, what is it Britons won't do for a bribe?
Sing Tantarara, Jews all! Jews all!
Sing, etc."

And not only did obnoxious, uncouth literature continue to be published, but open opposition arose against all who supported the Bill. The populace raised so much political dust and flung so much dirt that at the very first meeting of the next Parliament, a Bill was introduced to repeal it, which passed very quickly. The fury and agitation of the mob shouting "No Jews, no Jews, no wooden shoes" was quieted. The ~~dir~~ desire for tranquility was what moved the leaders to sacrifice their principles. The Bill² which met with almost unanimous approval did rouse one difference of opinion which is really interesting. The repealing bill³ opened

1. J.H.S.E. vol 6 p 168
2. J.E. vol 1 p. 22b: 86 Pico.
3. 27 Geo II c. 1.

"Whereas occasion has been taken, from the said act, to raise discontents and disquiets in the minds of His Majesty's subjects, be it enacted....."

An alteration was proposed which to the credit of the leaders of Parliament was not accepted, which read "...whereas great discontents and disquietudes had from the said act arisen..." This shows ~~at~~ the cause for the repeal was correctly allocated. Thus in less than a year the Jew was again under the political disability of not being able to acquire British nationality.

On December 19, 1792 Lord Grenville introduced an alien Bill into the House of Lords which became law.¹ This provided that aliens be required to obtain passports at their port of landing. Thus their movement could be watched. Furthermore, the government could expel any aliens. Thus the fact that the Jew could not acquire the privileges of British nationality also means that he could not be assured even of residence. This was not abandoned until 1826.²

and Act was passed
At last, in 1825³ by which the necessity of taking the sacrament of the Lord's supper was abolished as a preliminary to naturalization. Thus was removed one of the obstacles that existed since 1609.⁴ At last the Jew was able to ask for an Act of Naturalization. In 1844⁵ the acquisition of nationality was facilitated in that the system of naturalization was now by certificate from the Secretary of State. This was improved and extended by an Act passed in 1870⁶, as a result of which ~~was~~ the following simple oath was adopted which could be taken by everyone: "I, A.B. do swear that I will be faithful and bear true allegiance to her Majesty Queen Victoria, her heirs and successors according to her ~~Majesty's~~ Law. So help me God." Hence by the naturalization Act of 1870 the right of British nationality was acquired by the Jew in England.

1. 33 Geo IV, c. 4. p. 222 of Pico. P. 303 of Hyamson.

2. 6 Geo IV, c. 67

3. 7 Geo IV, c. 54

4. 7 Jac. Ic. 2.

5. 7 and 8 Vict. c. 66

6. 33 and 34 Vict. c. 14

CHAPTER VI

ACQUISITION OF THE RIGHT OF FRANCHISE.

The right to exercise the franchise at Parliamentary or other elections depended upon the fact that the elector was a freeholder in a county or a freeman in a borough. It was not until 1696 that an act was passed¹ which obligated the elector to take an oath. This act was directed against Popish recusants and the oath of Allegiance and Supremacy was required. Although a Catholic could not take them it was not impossible for a Jew to take them. Therefore from the time of the re-admission until 1696 at least, a Jew could enjoy the right of franchise. In the letter patent of denization granted to Antonio Fernandez Carvajal in 1655² it is specifically stated that he may enjoy the franchise. ~~It~~ I take it that other owners of letters patent of endenization had a similar right. It was not until 1707 when an act was passed³ entitled "An Act.....for the further regulating of voters in election of members to serve in Parliament," which required that all electors be required to take the Oath of Abjuration. As this oath contained the clause "upon the true faith of Christian" it is therefore very likely that the Jew hereafter could not vote. Section 13 of this Act⁴ states "persons refusing to take the oath.....are incapable of voting for election of members to serve in Parliament."

However, it must have been a common practice to vote. A letter⁵ written by L.L. Goldsmith to the Duke of Wellington on May 9, 1828⁶ in which

1. 7 and 8 Wm III c. 27

2. J.H.S.E. vol 2: 46

3. 6 Anne 78.(Ruff s. 23)

4. 6 Anne c. 78

5. J.H.S.E. vol 6

6. This is a letter in which he is interested in having his son admitted to the bar.

says, "Now, however, not only ~~my~~ my son's expectations will be completely frustrated, but it is also more probable that hereafter the Jews will be deprived of the elective franchise they have so long enjoyed under the sanction of the highest legal authorities of the country on those subjects, because a vote is only of effect when there is a contest, and on these occasions they will always be required by the parties for whom they do not vote to take the Abjuration oath according to the Statute of Queen Ann¹ with which under these circumstances they cannot comply". The contents of this letter clearly indicated that the necessity for reciting the clause in the Abjuration oath when voting was obsolete. Mr. I.L. Goldsmid is conscious however of the fact that as long as the act exists it can be enforced.

There is a period between 1707 and 1828, the date of the letter *(just quoted)* that must be considered. In 1723 an act was passed² which permits Jewish landowners required to take the Oath of Abjuration to omit the obnoxious clause. We can assume that at least Jewish landowners, during this period, did or could vote, as a matter of fact. The only danger as stated above, of depriving the Jew of the vote at Parliamentary elections would be if the returning officers cared to exercise these powers to the full;³ of compelling the elector to take the oath of Abjuration.

However, an act was soon passed which freed the Jew from this political disability. In 1835 an act was passed⁴ entitled "An Act to limit the time of taking the Poll in Boroughs at contested elections of members to serve in Parliament to one day" which abolished the power of the presiding officer to administer the oath of electors.⁵ Section 6 reads: "And it be further enacted, that no Electors at any election shall be required to

1. 1. 6 Ann c. 23 s. 13
2. 10 Geo. 1. c. 4.
3. Hyamson p. 324
4. 5 & 6 Wm IV cap 36, sec. 6
5. Hyamson p. 322

take the Oaths commonly called the Oaths of Allegiance, Abjuration, and Supremacy, nor any Oath or Oaths required to be taken by any Act of Parliament in lieu thereof, any Law or Statute to the contrary notwithstanding." Hence the right to the franchise was gained. One more act was passed in 1872 which shows how highly the Jewish vote was later regarded. The Ballot ¹ ~~Act~~ provides that if a Parliamentary election takes place on Saturday, the presiding officer may mark a Jewish elector's ballot paper for him.²

Thus, we see that in 1835 the Jew could enjoy the franchise and it is very likely that before that time, the old laws, which would prohibit this political right became obsolete; and that as a matter of fact Jews voted before the year 1835.³

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1. H 35 and 36 Vict c. 33, 1st schedule rule 26
 2. J.E. I. 173a
 3. J.H.S.E. vol 6. p.

CHAPTER VII

ACQUISITION OF THE RIGHT OF HOLDING AN OFFICE UNDER A MUNICIPAL CORPORATION OR UNDER THE CROWN.

At the time of the readmission the Jew was in no position to hold any office either in a municipality or under the crown, even were he qualified to do so. The Jew was fortunate to be permitted to trade or even to live at this time. However, when Chas. II came to the throne many influential Jews already lived in London. Many of them had already acquired letters patent of endenization; yet if they could have held an office up to the accession to the throne of Chas II, they could not do so immediately thereafter. For one of the early acts of his reign would prevent a Jew from enjoying such a political right.

In 1661 what is known as the Corporation Act¹ was passed which provided that any candidate for such office must, within a year before election, take the Sacrament of the Lord's supper according to the rights of the Church of England². In addition to the sacrament, such candidates were required to take the Oaths of Allegiance and of Supremacy. According to such provisions, during the reign of Chas II it was impossible for any Jew to hold any office in London or in any body governing towns.

The Test Act of 1673^{1a} did not open the door for the Jews, for this required that within three months after the admission to office, one had to take the Sacrament of the Lords Supper. The Parliamentary Test Act³ was directed against all Dissenters and so surely held out the Jews. In 1701 the Oath of Abjuration was invented^{4a} which contained the clause "upon the true faith of a Christian" and which all who held public office had to take. A conscientious Jew could hardly enter office at this time. In 1718 an Act was passed⁵ which provided that no one be removed from an office for not complying with the qualification necessary to hold the same

1. 13 Car II St. 2, c. 1.

2a. Thomas "Hist of England p.356

2. D.H. Montgomery, "English Hist. p. 279

3. 25 Car II c. 2

4. 30 Car II st. 2.

5. 5 Geo I c. 6

4a 13 and 14 Wm III c 6

if within six months after election, proceedings have not been taken and prosecuted without wilful delay. According to this a Jew could hold office. Ten years later another act was passed¹ called the Indemnity Act. By this a person who neglected to take the proper oaths, etc to qualify him for office was indemnified and recapacitated if he qualified himself on or before Nov. 28, 1728. This act was reenacted every year until 1868. Therefore after the reign of Geo. II it was possible for a Jew to hold an office at least until the day set, by when due qualifications must be made. Since these acts were annually reenacted, one could hold office without taking the sacrament or without pronouncing the obnoxious words.

A complete century passed before any legislation was passed regarding this matter. In 1828 an Act was passed² called the Sacramental Tests Repeal Act, by which one could express a Declaration instead of taking the Sacrament. It provides "that any person who shall hereafter be placed, elected or chosen in or to the office of mayor, alderman, Recorder, bailiff, town clerk or common councilman, or in or to any office of magistracy or place, trust or employment relating to the government of any city, corporation, borough.....shall, within one calendar month next before or upon his admission into any of the aforesaid offices or trusts, make and subscribe the Declaration following:-- "I, A.B. do solemnly and sincerely, in the presence of God, profess, testify and declare, upon the true faith of a Christian, that I will never exercise any power, authority or influence, which I may possess by virtue of the office of.....to injure or weaken the Protestant Church as it is the law established in England, or to disturb the said church or bishops and clergy of the said

1. 1 Geo II St. 2 c. 23

2. 9 Geo IV, c. 17

church in the possession of any rights or privileges to which such church, or the said bishops and clergy are or may be entitled." The clause "upon the true faith of a Christian" made it impossible for Jews to take their oath. Of course, the law of indemnity still relieved the Jew. From the moment this act was passed until 1858¹ there was a continuous debate in Parliament for the retention of this privilege to the Jew. The removal of that clause would have been sufficient. The status of the Jew was not rendered any more favorable by this new act. In fact, the Jew and all protagonists of Jewish relief from disabilities were greatly disappointed. "Both Houses of Parliament had so solemnly sanctioned the principles of religious liberty"² that no one ever dreamed that the same liberty would not be extended to the Jews.

Thus far the Jew was asking for the right to hold office under the crown. In 1835 ~~xxxx~~ an actual case arose which had to be met. The office of the shrievalty for Middlesex³ was vacant. David Salomons was elected sheriff of London which was both a city and a county office. As sheriff of a city he had to make a Declaration within one month preceding taking of office. This declaration contained the obnoxious clause. As sheriff of a county the regulations compelled him to comply with were different. To occupy this office he would not have to make the declaration, also containing the same obnoxious words, until six months after he took office. Also he could take advantage of the Indemnity Act.⁴ and so he could hold the office so far as the county was concerned. He refused to do so. That year Parliament to overcome this manifest unjust situation was induced to pass an Act which applied to this special office. By virtue of it⁵ a Jew could hold the office of Sheriff but no other office. This

1. Montgomery p. 403

2. "Enfranchisement of Jews" by I.L. Goldsmid 1831

3. 391 Pico.

4. 1 Geo II St. 2 c. 23

5. 5 and 6 Wm IV c. 28

act entitled "An Act for removing doubts as to the Declaration to be made and oaths to be taken by persons appointed to the office of Sheriff of any City or Town being a county of itself" provided that no one elected to such an office should be compelled to subscribe the above mentioned Declaration. Thus we see the hardship of a particular case removed, but Parliament was not willing and not ready to open the door to the Jew to hold any other office.

In the same year Mr. David Salomon now holding office of Sheriff, was elected Alderman for Aldgate, a city office. The court of Aldermen asked if he were ready to make the required declaration which was passed in ~~1829~~ 1829 and referred to above.¹ Naturally he could not nor would he. He was then asked if he would take it upon being admitted to which he refused to commit himself. It was just such cases as this that Mr. I L. Goldsmid feared in the letter he wrote to the Duke of Wellington when the act of 1828 was passed.² The obnoxious clause could be omitted, if he who administered it chose to do so. But one can never rely upon the good graces and spirit of tolerance of another. So long as he who administered the declaration insisted, the Jew was compelled to accept or reject what was offered him. Consequently, the Board of Aldermen refused to admit him and another was elected in his place. Proceedings "Quo Warranto" were taken against the new alderman. In the court of King's Bench, Salomon was upheld. The Court said that the aldermen were wrong in not admitting him to office. In the higher court, the Court of the Exchequer Chamber, it was decided that the election of a successor was regular and legal. Thus Salomon was forced to suffer the disability.³

1. 9 Geo IV, c. 17

2. J.H.S.E. vol 4 p. 133

3. This case is reported in Green v. Humphrey, 1828.

Nine years later, Mr. David Salomon was again elected alderman, 1844, and again he could not take his seat. The next year Lord Chancellor Lyndhurst introduced a Bill in the House of Lords called the Jewish Disabilities Removal Act of 1845.¹ It was carried. Sir Robert Peel introduced it in the house of Commons and it was carried there.² Thus an act³ relieves persons of Jewish religion elected to municipal offices. In 1847 Mr. David Salomons was again elected alderman and he now took the new declaration.

But other offices were still closed to the Jew. To hold them the Declaration in 9 Geo IV, c 14 containing the obnoxious clause had to be taken. In 1858 an act was passed entitled "The Oaths Act"⁴ which extended the benefits of the Jewish Disabilities Removal Act of 1845⁵ by which a Jew could hold a municipal office to all other cases where the above declaration had to be made. The next Act, known as the Jewish Relief Act⁶ omits the obnoxious words when taking the newly formed oath of Allegiance, Supremacy and Abjuration. As a result all offices of crown were thrown open except those specifically mentioned in the Act.

In 1867, the office and Oath act was passed⁷ which opens the office of Lord Chancellor of Ireland to all subjects of the Queen.

In 1871 the Promissory Oaths Act⁸ removed all disabilities upon the Jews to hold certain offices which were imposed by the Act of 1858. Thus all offices except the crown itself became open to Jews. In that very year, 1871, Sir George Jessel was appointed a minister of the Crown. In 1873 he became the first Jewish Privy Councillor. In 1900 Sir Matthew Nathan became the first Jewish Colonial Governor,

Thus since 1845 a Jew could hold any municipal office; since 1858 he could hold many offices of trust under the crown. Since 1871 he could hold any public office.

1. 8 and 9 Vict c 52

2. Hans. 3rd Sec. 78: 515

3. 8 and 9 Vict.c. 52

4. 21 and 22 Vict. c 48

5. 8 and 9 Vict. c. 52

6. 21 and 22 Vict. c. 49

7. 30 and 31 Vict. c. 75

8. 34 and 35 Vict. c. 48, s. 3.

CHAPTER VII

ACQUISITION OF THE RIGHT TO SIT IN PARLIAMENT

After the Act was passed in 1829¹ granting the privilege to the Roman Catholic to sit in Parliament, the Jews felt the time ripe for them to ask for the same privilege. Indeed, the Jew could have enjoyed this political right in 1828, when the Act permitting a Declaration instead of Sacrament for those who hold office, etc.² was passed making it possible for an English native-born to hold an office under the Crown and to sit in Parliament provided he made the Declaration contained in that Act instead of a Sacrament of the Lord's supper which was the necessary qualification heretofore. The act was not intended for the Jew, but it could apply to him. There was but one difficulty, viz, the Declaration contained the clause "upon the true faith of a Christian." Had it not been for this clause the Jew could have entered Parliament in the year 1828 and the long struggle for emancipation, the 30 years of hard fighting in and out of Parliament, the many pamphlets and speeches both for and against the Jew--all this could have been avoided. Instead, the Jew and his rights were discussed in nearly every session of parliament for one third of a century until the two houses of Parliament neared a serious antagonism. The emancipation of the Catholic from political disabilities encouraged the Jew to fight for the same status.

There was no act which might be considered a direct prohibition to the admission of the Jew into Parliament.³ Yet the English law was such that the Jew was excluded from sitting and voting in the supreme legislative body of the land.⁴ That is to say, no specific law existed which said that Jews shall not sit in this body, but to do so one had to take an oath which

2. 9 Geo IV c. 17

2.1. 10 Geo IV d. 27

3. Picc. 397

4. Hyamson p. 320

because of its form the Jew was unable to take. Similarly, at this time, 1830, the Jew could not hold a high rank in the army or navy;¹ nor could he be a member of the university of Oxford; nor could he receive a degree, scholarship or position of emolument in University of Cambridge.² Such was the situation. Many Englishmen of high standing were in favor of removing the disabilities and gave the best efforts of their political career to this cause. Men like Vassell Holland, Robert Grant and John Russel threw themselves whole heartedly into the struggle. Were they Jews they would have fought no harder nor with more sincerity or sacrifice. All these were aware that the Jew had a right to enjoy political equality and therefore ought to be enabled to enjoy political equality.

The Act³ as passed regarding the emancipation of the Catholics raised so much political turmoil and religious heat that the Duke of Wellington and others advised the Jewish community not to present any Bill at (1829) once. The Duke was not a liberal. He was an upholder of ancient traditions and institutions. Protagonism for religious liberty could not be expected from him. Yet he was not wholly disinclined to regard the Jew favorably. When Mr. N.M. Rothschild and Mr. I.L. Goldsmith approached him about presenting a bill to Parliament to relieve the Jews he advised that they wait. His advice because of the then state of mind of the populace, was good and it was heeded.

It must be remembered, however, that to sit in Parliament was not necessary to protect the Jew as such.⁴ He lived as though he did have rights. It might be said that he could live in England much happier without rights than elsewhere with rights. Yet, to overcome the constant fear, that he might be incapacitated should any one choose to press the Jew, was necessary. An Act was required to prove beyond any doubt that he was a full member of the British Empire.⁵

1. Hyamson p. 320

2. Hyamson p. 328

3. 9 Geo IV.

4. J.H.S.E. 4:119

5. J.H.S.E. vol 4 p. 119

It would not be irrelevant to inquire just what were the obstacles to admitting Jews. The answer might be found in the fact that England was slow in separating religion from politics and of granting freedom of conscience. An excerpt from a letter of the leader for Catholic emancipation, Daniel O'Connell to the leader for Jewish emancipation, I.L. Goldsmith, dated September 11, 1829¹ expresses what was in the minds of all leaders of English life who were willing to extend justice to the Jew: "You must, I repeat, force your question on Parliament. You ought not to confide in English liberality. It is a plant not genial to the British soil. It must be forced. It requires a hot bed. The English were always persecutors. Before the so-styled Reformation the English tortured the Jews and strung up in scores the Bollandards. After that Reformation they still roasted the Jews and hung the Popists. In Mary's day the English with their usual cruelty retaliated the tortures on the Protestants. After her short reign there were near two centuries of the most barbarous and unrelenting cruelty exercised towards the Catholics, a cruelty the more emanating because it was sought to be justified by imputing to them tenets and opinions which they always rejected and abhorred. The Jews, too, suffered in the same way. I once more repeat, do not confide in any liberality but ~~think~~ that which you will yourself rouse into action and compel into operation."²

The letter contains strong statements, yet the lack of liberality of England may have been a real objection to admitting the Jew to the legislative body.

Another obstacle was the spirit of loyalty to the Church of England. Loyalty is a noble virtue but it can be advocated to a vice. When

1. J.H.S.E. vol 4 p. 151
2. J.H.S.E. vol 4 p. 151-2

loyalty to the church leads to injustice and intolerance, then it ceases to be a virtue. The granting of political rights to non-conformists was interpreted as apostasy by the clericals. They objected to any further encroachments upon the principle of religious inequality.¹ But not only did clericals offer vehement objection to the Jew entering Parliament they were men of high social and political standing who held the same view. "Lord Grey, the liberal leader who carried the Reform Bill of 1832, always refused his support to Jewish emancipation. Sir Robert Peel spoke and voted against it in the House of Commons. Mr. Gladstone opposed it for nearly twenty years both in Parliament and in his well-known book on Church and State. Lord Shaftesbury, the philanthropist, who in his own peculiar way was a friend of the Jewish race, described the proposal to admit the Jews as an insult to Christianity and an attempt to thwart God's wise purposes. And a crowd of less distinguished men in Parliament took the same course. Session after session members who disdained all personal and social prejudice against the Jews protested in the interest of the Christian religion against their admission to Parliament."² All this was due to the current thought that Christianity was still a part of the law of the land and ought ever to remain so. This was held particularly by the country gentlemen who ~~maintained~~ mainly carried on the opposition in Parliament to Jewish claims. On one critical occasion they overthrew a leader whom they really needed, Lord George Bentinck, because he spoke and voted in favor of Jewish emancipation.³ Also the fact that the Prime Minister could appoint high church officials, some of which appointments were regarded as heretics, caused the adherents of the Church to prevent any un-Christian influence to enter the legislature. Furthermore, it must not be forgotten that the history and practice of the English constitution urged adherents of old traditions to

1. J.H.S.E. vol 4 P. 123

2. J.H.S.E. vol 4 p. 124

3. J.H.S.E. vol 4 p. 125

protest against extending rights to Jews. He was regarded as a cosmopolitan¹ and as not belonging to Protestantism. The attitude of Kings and Queens and legislature toward Protestantism became an institution and it became difficult, therefore, to convince the country to admit non conformists to its political institutions.

Thus we see, in a general way, just what the condition was in England when the first steps were taken to free him from his political disabilities. In January 1830 a petition to Parliament was prepared by Mr. Pearce under the direction of Dr. Lushington.² Mr. Huskinson presented another petition of ²⁰⁰⁰ names including merchants and others of Liverpool. These petitions preceded any attempts to having the Parliament consider the matter. It might help comprehend the situation to know that at this time there were 30,000 Jews in England.³ On April 5, 1830 Mr. Robert Grant, of who we shall hear much later and who labored hard and consistently for the Jew, received leave to bring in a Bill to the House of Commons by a majority of 18 votes. The Bill which was then introduced was designed to repeal the civil disabilities affecting British born subjects professing the Jewish religion. Upon its first reading in the house of Commons on April 5th it received⁴ one hundred and fifteen votes for and ninety seven votes against it.⁵ On May 17 on its second reading in the House of Commons, though a monster petition containing fourteen thousand names, almost as many names as one half the Jewish population in England at the time, it was rejected by a vote of two hundred and sixty five ~~an~~ against two hundred and twenty eight.⁶ The bill never reached the House of Lords.

1. J.H.S.E. vol 4 p. 121

2. Picc. p. 388

3. Hyamson p. 319

4. Hansard's Parliamentary debates vol 24 23: p. 1336 2nd ~~series~~ series

5. Hyamson p. 325

6. Hansard second series p. 814 vol 24

Gen. Note It is interesting to know that on April 5, 1830, Lord Macaulay made his maiden speech in Parliament. He was now only thirty years old. His first speech was a marvellous plea for the removal of Jewish disabilities.

Because of the importance of this bill and in view of the fact that it is the first actual step taken in the direction of political emancipation, it is here reproduced:

"Whereas by the operation of various laws, His Majesty's subjects professing the Jewish Religion are subject to certain restraints and disabilities; And whereas it is expedient that the same should be removed, and the Subjects of His Majesty professing the Jewish Religion be placed in the same state and condition, as to all civil rights and privileges, as His Majesty's Roman Catholic subjects;

May it therefore please your MAJESTY

That it be enacted AND BE IT ENACTED, by the KING'S most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the passing of this Act, it shall be lawful for any of His Majesty's subjects professing the Jewish religion to have and enjoy all such and the same civil rights, franchises and privileges, and to hold, exercise and possess such and the same offices, places, employments, trusts and confidences as the subjects of His Majesty professing the Roman Catholic religion are now by law able and competent to have, enjoy, hold, exercise and possess, and under the same restrictions; Provided, always, that His Majesty's subjects professing the Jewish religion shall in all cases in which His Majesty's Roman Catholic subjects are by law so required to do, take, in the form and manner and under the modifications hereinafter mentioned, and subscribe the Oaths set forth and appointed in and by an Act passed in the last Session of Parliament, intituled, "An Act for the Relief of his Majesty's Roman Catholic Subjects," and make and subscribe the Declaration prescribed by An Act passed in the ninth year of His present Majesty's reign, intituled, "An Act for repealing so much of "several Acts as impose the necessity of receiving the Sacrament

of the "Lord's Supper as a Qualification for certain Offices and Employments."

Provided always, and be it further Enacted, That when any of His Majesty's subjects professing the Jewish religion shall take the said Oaths or subscribe the said Declaration, the words "on the true faith of a Christian" shall be omitted.

And be it Enacted, by the authority aforesaid, That whenever any of His Majesty's subjects professing the Jewish religion shall at any time or times hereafter present himself or be required to take the said Oaths appointed and set forth in and by the said Act passed in the said last session of Parliament, or any other Oath or Oaths, all the said Oaths shall be administered to and taken by such person professing the Jewish Religion in like manner as Jews are admitted to be sworn to give evidence in courts of Justice; and the same shall be deemed a sufficient and lawful taking of such Oaths on all occasions whatsoever.

And be it further Enacted, That from and after the passing of this Act, His Majesty's subjects professing the Jewish religion shall be and become subject and liable to such and the same incapacities, disabilities and penalties as His Majesty's subjects, professing the Roman Catholic religion now are subject and liable to by law, and to none other incapacities, disabilities or penalties whatsoever; and that the Oath hereinbefore referred to, being taken in manner aforesaid and subscribed by any person professing the Jewish religion, shall be of the same force and effect, for the relief and exemption of the person taking and subscribing the same, from any disabilities, incapacities or penalties whatsoever as the same Oath would be for the relief and exemption of a person professing the Roman Catholic religion, if taken and subscribed by such person in the manner

directed by the said Act of the last session of Parliament; and that the Oath hereby authorized to be taken by persons professing the Jewish Religion shall be administered, recorded and certified by the same persons and in the same manner respectively as by the last-named Act the Oaths thereby authorized to be taken by persons professing the Roman Catholic religion are directed to be administered, recorded and certified."¹

Soon many petitions were presented to Parliament regarding Jewish emancipation. On February 7, 1833, Mr. Wilkes of the House of Commons presented a petition from the Committee of the Protestant Society for the protection of religious liberty, in favor of the complete emancipation of the Jews. Sir Robert Inglis, who was an opponent of the Jews for many years objected to having such a petition presented. Daniel O'Connell, the leader of the Catholics, and who was instrumental to a large extent in gaining Catholic emancipation, warmly supported Mr. Wilkes.² On February 12, 1833, Dr. Lushington arose in the House of Commons to present a petition signed by one thousand individuals of the Jewish persuasion.³ Similar petitions were presented on March 1, 1833⁴ March 18, 1833,⁵ On March 19, 1833 a petition was presented to the House of Lords⁶ and on March 22, 1837 in the House of Commons.⁷

From 1833 to 1836 nothing was really gained.^{7a} On April 17, 1833 Mr. Robert Grant again introduced the Jewish Disabilities Bill into the House of Commons.⁸ and the motion so to do passed in spite of the vigorous objection of Sir Robert Inglis.⁹ Mr. Grant asked that the House of Commons

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1. J.H.S.E. vol 6 p. 250
 2. Hans. 3rd series vol 15, p. 310
 - Hans 3rd series vol 15, 559
 4. Hans, vol 16, p. 10
 5. Hans. vol 16, p. 725
 6. Hans. vol 16, p. 775
 7. Hans. vol 16, p. 973
 - 7a. Hans. vol 17, p. ~~244~~ 205
 9. Hans. vol 17, p. 205
 8. Picc. p. 389

consider itself as a committee of the whole and consider this matter and there he moved the same motion.¹ The second reading in the House of Commons was carried on May 22, 1833 by a vote of One Hundred and Fifty nine as against Fifty-two.² And on July 22, the "third reading was carried by a vote of one hundred and eighty nine votes as against fifty two votes."³ Thus it was sent up to the House of Lords ^{4a} August 1st where the bill was rejected on its second reading by a vote of one hundred and four votes as against fifty four.⁴ This occurred in spite of the fact that the Duke of Sussex presented a petition on which appeared seven thousand names of distinguished citizens of Westminster.⁵ After the bill lost, Vassal Holland presented a strong objection to the action taken, in writing.⁶

April 24, 1835 Mr. Robert Grant carried a motion again by a vote of fifty three to nine to consider the matter.⁷ The second reading in the House of Commons was carried by a vote of one hundred and twenty three as against thirty two.⁸ ^{8a} The third reading in the House of Commons ⁹ was carried by a vote of fifty as against fourteen. The Bill was then sent up to the House of Lords,¹⁰ where it was again rejected by a vote of one hundred and thirty as against thirty eight.¹¹ It was deemed inadvisable to make the appeal during the year 1835 to Parliament for political emancipation. The following year Mr. Spring Rice, the Chancellor of the Exchequer of a liberal government¹² introduced another Bill for Jewish relief.

1. Hans. vol 17, p. 205-44
 2. Hans. 3rd, vol 18, p. 59
 3. Hans. vol 19, p. 1081
 4. Hans. vol 20, p. 249
 4a. Picc. p. 390
 5. Hans. vol 20, p. 221 (Hyams. 327)
 6. Hans. vol. 20, p. 252

7/ Hans. vol 22, p. 1373 3rd ser
 8. Hans. vol 23, p. 1157
 8a. Hans. vol 23, p. 1349
 10. Picc. p. 390
 9. Hyamson p. 327
 11. Hans. vol 24, p. 731
 12. Hyamson p. 327

On August, 1836, the Chancellor of the Exchequer moved that the Jewish civil Disabilities Bill be read a second time.¹ and it was passed by a vote of thirty-nine for as against twenty-two. On August 12, 1836, it was moved that it go to Committee and it passed by a vote of forty-two to three.² On August 15, a motion was passed by a vote of forty-four against thirteen, that the Jewish Civil Disabilities Bill receive a third reading in the House of Commons. On August 15/^{it} was read for the first time in the House of Lords. Because of the fact that the session was late and also because it was apparent that support would be weak, the motion for a second reading was never moved.

This ends a period when it was attempted to gain the desired end by moving a general Bill. Between now and 1847 only minor measures of relief were made until by small steps, changes in the form of the oath and in the methods of administration were gained. It must also be remembered that in 1835³ Mr. David Salomons was elected sheriff of London and that a Bill was subsequently passed to enable him to hold this office.⁴ This fact gave rise to a new idea. Solomons determines to run for the representation to Parliament and then bring about the desired end in another way. Accordingly in 1837 Mr. David Salomons runs for the representation of Shoreham but he loses. In 1841 Mr. David Salomons runs again for the representation of Markstone to the House of Commons and loses as before. These defeats plus the fact that the chief protagonists of the cause of the Jews died, viz, Mr. Robert Grant and Lord Vassell Holland, caused the Jews to lose heart somewhat. The decision was made that for the next few years concentration be made to obtain admission to municipal offices. In

1. Hans. vol 35, p. 865

2. Hans. vol 35, p. 1210

3. Hyamson, p. 322

4. Hyamson p. 322

this they gained; certain minor disabilities were removed. It was not until the year 1847 that courage was again engendered.

In 1847 Mr. David Salomons tries again for representation to the House of commons; this time for Greenwich, but he loses. In the meantime¹ Baron Lionel de Rothschild is elected for the city of London. It was his good fortune to run in a district and for a party where there was a good chance for him to win. He and John Russel, who took up the task where Mr. Robert Grant left off, were returned for the city of London together. Now there was a real opportunity to see what would happen. Baron Lionel de Rothschild presented himself to be sworn in. Before he could sit and vote in the House of Commons, it was required that he take three oaths. Two elements entered which made it impossible for a conscientious Jew to comply with these requirements. In the first place it had to be taken on the New Testament. In the second Place the Oath of Abjuration contained the clause "upon the true faith of a Christian." By the Act of Parliament (1 Geo I. St. cap 13, ss. 16, 17) the House of Commons could not waive the oath or alter it in any way. Further more it must be remembered that a penalty was imposed on any one who sat or voted during a debate. This was a strange position for Baron Lionel de Rothschild to be in. He was elected by a constituency in London to sit in the House of Commons. He could not take the Oath of Abjuration; though he could take the oath of Allegiance and the Oath of Supremacy, but the House of Commons was not at liberty to alter the wording of the oath of Abjuration, so as to permit him to enter. And yet there was no provision whereby a member's seat might be declared vacant, even though no oath was taken to vote in Parliament.² There was no relief. On December 16, 1847, Lord John Russel, the Prime Minister, moved that the House resolve itself into a Committee on the Removal

1. Hyamson p. 378

~~J. & E.L.~~
2. J. & E.L. p. 268

of Civil and Religious Disabilities affecting Her Majesty's Jewish subjects"¹ This Bill passed the second reading in the House of Commons by two hundred and seventy seven votes for and two hundred and four votes against it.² In the house of Lords it was rejected on its second reading by a vote of one hundred and twenty five for and one hundred and sixty three against.³

It is interesting to learn, however, that opinion is already beginning to waver. In 1847 Mr. Gladstone changed his position on the matter. He was elected to represent Oxford on the plank that he was opposed to Jewish relief. After election he said he changed his mind and spoke in favor of Jewish claims. We also learn that Sir Robert Peel changed his opinion. On May 4, 1848 another Bill to the same effect passed in the House of Commons by a majority of sixty one votes.⁴ but it was rejected in the House of Lords by a vote of one hundred and sixty three as against one hundred and twenty eight.⁵

In 1849 Baron Lionel de Rothschild resigns⁶ and is reelected by Chiltern Hundreds and the following year he seeks to take his seat. In the same year, 1849 Lord John Russell introduces the Parliamentary Oaths Bill so as to alter the oath in favor of Jews.⁷ In the House of Commons it passed on May 7, 1849 the second reading by a vote of two hundred and seventy eight as against one hundred and eighty five.⁸ It passed the third reading on June 11, 1849 in the House of Commons by a vote of two hundred and seventy-two as against two hundred and six.⁹ It then came before the House of Lords where it was rejected on June 26, 1849¹⁰ on its second reading by a vote of ninety five as against seventy.¹¹

1. Ficc p. 397

2. Hyamson p. 329

3. Hansard p. 1421 vol 95

4. Hans. vol 98 p. 667

5. Hans. vol 98 p. 1407

6. Hyamson p. 329

7. Hans. p 906 vol 102

8. Hans. vol 104, p. 1446

9. Hans. vol 105, p. 1430

10. Hans. vol 106, p. 871

11. Hans. vol 106, p. 920

In the meantime the constituency who elected Baron Lionel de Rothschild demanded he appear to take the oath. Accordingly, on July 26, 1850 he came to be sworn at the Table of the House of Commons and requested to be sworn on the Old Testament. The Speaker directs him to withdraw.¹ After a long debate in the House of Commons, his request was granted. The Oaths of Allegiance and of Supremacy were properly administered on the old Testament. In taking the Oath of abjuration, Mr. Rothschild refused to repeat "on the true faith of a Christian" and said "I omit these words as not binding on my conscience" and ended with "So help me God". Because of this he was requested to withdraw,² while a debate took place. By a vote of one hundred and sixty six to ninety two it was decided that "Baron Lionel Nathan de Rothschild is not entitled to vote in the House or sit in this House during any debate, until he should take the oath of Abjuration in the form appointed by law." It was further resolved that the question of relief for those professing the Jewish religion be considered at the next session.³

The next year 1851, in accordance with a decision arrived at during the last session, the Oath of Abjuration (Jew) Bill was introduced by the Government, which provided that a Jew may omit the clause, "upon the true faith of a Christian" when taking the oath of Abjuration, before taking a seat in Parliament.⁴ In the House of Commons it passed by a majority of twenty five;⁵ the resulting vote being two hundred and two for and one hundred and seventy seven against.⁶ But when it came to the House of Lords it lost by a vote of one hundred and forty and four to one hundred and eight.⁷ This occurred on July 17, 1851.⁸

1. Hans. vol 113, p. 297

2. Hyamson, p. 330

3. Hans 113, p. 298, 333, 396, 453, 486, 533, 769, 817

4. Hans. vol 135, p. ~~1000~~ 1006

5. Hans vol 118, p. 147

6. Hans. vol ~~118~~ 118, p. ~~209~~ 146

7. Hans. vol 118 p. 909

8. " " "

If we reflect for a moment, we become aware of the fact that it is now twenty three years since 1828 and the single point of removing the clause "upon the true faith of a Christian" has not yet been gained. Now new tactics are to be employed.

At last Sir David Salomons, that indomitable spirit who is determined to wedge his way forward into the ranks of Parliament, is elected to a seat in that august body, representing Greenwich.¹ On July 18, 1851 the day after the Bill is rejected in the House of Lords to strike out the obnoxious words from the Oath of abjuration, sir David Salomon presents himself at the table to be sworn in. He refuses to use the New Testament,² and the speaker grants him the privilege to use the Old Testament.³ He reads the Oath of Allegiance and of Supremacy and of Abjuration; but he leaves out the obnoxious clause and concludes with the words "so help me God." This action is reported to the Speaker, who tells Mr. Salomons to withdraw. Instead, Mr. David Salomon sat down on one of the benches upon which only duly qualified members are permitted to sit. Consternation seized that august body of legislators. Here was a man who dared take his seat when he had not yet ~~pronounced~~ pronounced those magical words "upon the true faith of a Christian" Until he had done so he was a parliamentary pariah. What stupidity! What nonsense! Had he merely consented to pronounce that beautiful sentence for a Christian but that obnoxious sentence for a conscientious Jew, against which his whole nature rebelled, against which two thousand years of Jewish history rebelled, he could have sat on the self-same seat. But the Speaker, on behalf of the Assembly and the Galleries whose righteous indignation was aroused, was compelled to

1. Picc. p. 398

2. Graetz, Hist of the Jews vol p. 698 (vol 5) Hans. 118, p. 279

3. No dissension takes place as it did in the case of Baron Lionel de Rothschild the year before).

inform Mr. David Salomon that unless the Oath of Abjuration was taken as it stands he must withdraw. Thereupon he withdrew.¹ Next Monday July 21, 1851, Mr. Salomon returns and takes his seat. The speaker again informs Salomon to withdraw, but he refuses. The Speaker asks for support of the House. The Prime Minister Lord John Russel moves² "that Mr. Alderman Salomons do not withdraw." Mr. Bernal Osborne³ moves that since Mr. Salomons took the required oaths in a manner most binding on his conscience, he is entitled to take his seat in the House. Someone moved for an adjournment of the debate and Mr. Salomon rose and voted with the minority. Motion was lost 65 to 257. The motion which was made as an amendment to the motion of Lord John Russel, was voted upon and it lost by a majority of 148. While that vote was being taken, Mr. Salomons withdrew and immediately thereafter he returned. The discussion was now on the original motion made by Lord John Russel that he withdraw. During the debate on motion for adjournment, Mr. Salomons was directly challenged and asked what he intended to do. He arose to answer. There was much confusion. Many voices shouted for him to withdraw from the House. But he gained a hearing and then spoke in a manner that was very favorably received. He modestly proposed before them the thought that he was obligated to his constituency to represent them. When he had finished, after the defeat of a ~~mx~~ motion for adjournment, the motion that he withdraw passed by 231 to 81. The speaker informed him to withdraw which he refused until the Sergeant at Arms⁴ appeared and placed his hands upon him and conducted him below the Bar.⁵ The next day the subject was resumed. The Prime Minister moved that Mr. Salomons shall ~~wik~~ neither be entitled to sit in House of Commons or to vote there, until he had taken the oath of

1. Hans. vol 118, p. 980
2. Hans. vol 118, p. 1146
3. Hans. vol 118, p. 1147

4. J.Q.R. 19 p. 759 old series
5. Hans. vol 118, p. 1143-2217
6.

Abjuration as prescribed by Law. Mr. Bethall moved that since both Mr. Rothschild and Mr. Salomons had taken the oaths in a manner that must be accepted by the House, that they be permitted to take their seats. This was lost by 118 to 71.¹ Another motion was made that would require the mode of taking the oath so altered that the representative for Greenwich may take it.² In the meantime two petitions were presented to the House one by the constituents of Baron de Rothschild and another on behalf of Mr. Salomons. Both were des regarded by the House. Again motions was made and carried that Mr. Salomon be not entitled to sit or vote in the House until he shall have taken the Oath of Abjuration as prescribed.

From the time Mr. David Salomon presented himself to be sworn and the time he finally withdrew under what he considered coercion, he he had voted three times without having taken the oath in a manner satisfactory to the legislature. According to the statute³ he was to pay £500 for every offense. The House of Commons did not institute proceedings compelling him to pay this, but a private citizen by the name of Miller undertook to prosecute him.³ The action was tried in the Court of Exchequer by Baron Martin and a jury, which returned a verdict embodying the facts of all that occurred since July 21, 1852.⁴ To prove that the penalties that ensue a breach of the statute⁵ be not enforced against Mr. David Salomons these four arguments were advanced:

1. Since the Oath of Abjuration continued the words "our sovereign Lord King George," and since the reigning king at this time did not know the name George, then the obligation to take the oath no longer existed. This is a technical point and could be construed in the manner suggested on behalf of Mr. Salomons if it were desired to do so. The clear meaning of the Statute, however, surely must have meant that the name of the reigning

1. Hans. vol 118, p. 1318

2. Hans. vol 118, 1318-66

3. 1 Geo 1st 2, c. 13, ss 16, 17.

4. 3.7 Exchequer 475 ff.

5.

4. J. & L. E. p. 274

5. 1 Geo 1 St. c. 13, ss, 16, 17

king be substituted when necessary and undoubtedly it was done so.

2. It is the nature of a law regarding an oath that it be required to be taken in such a manner as to be binding. It would be of little value to take it if it had no effect. Indeed today it has become a pro-functory manner. But in his day an oath was intended to be binding. In fact when the clause "upon the true faith of a Christian" was added in 1606 the intention was that the oath could not be taken with any mental reservation. And the special acts regarding Quakers that they might omit the obnoxious clause also shows that the intention of the Government is that the oath be made binding. The words are not part of the substance, but part of the words. "So help me God" was omitted from the Oath of Abjuration,¹ yet the substance of the oath remained. In the ~~same~~ case of Mr. David Salomons, to omit the clause "upon the true faith of a Christian" would make it binding upon his conscience and therefore, it should be regarded that he did take the oath as required. This too is a matter that permits of interpretation.

3. Furthermore the Oaths Act of 1838² really authorized him to take it in the manner he did.

4. By the provisions of 10 Geo I, c. 4 which was kept alive by the annual indemnity acts, Mr. David Salomon was enabled to take the oath.

The judgment of the court was against Mr. David Salomon. The court differed on the point as to whether the clause "on the true faith of a Christian" was an essential part of the substance of the oath or not. Baron Martin held that the words were not. He held that they were originally

1. 6 Geo III c. 53

2. 1 and 2 Vict. c. 105

inserted for the purpose of making it more binding upon Roman Catholics and to ask Jews to take it and to assume it would be binding upon them was absurd. The majority of the Court however held the opposite, viz, that the words are an essential part of the oath and must be read when taken.

The judgment was appealed to the Exchequer chamber and May 1853 was unanimously affirmed. It is interesting to note the final words of Baron Alderson in the Lower Court and of Lord Campbell, the chief Justice, in the upper court.

Baron Alderson said: "I do most sincerely regret, as a mere expounder of the law, to come to this conclusion---for I do not believe that the case of the Jews was thought of by the legislature when they framed these provisions. I think that it would be more worthy of this country to exclude the Jews from these privileges (if they are to be excluded at all, as to which I say nothing) by some direct enactment, and not merely by the casual operation of a clause intended apparently in its object and origin to apply to a very different class of the subjects of England."¹

Lord Campbell said: "We have only to declare what the law is, not what it ought to be. I regret that the Act ever passed so as to exclude the Jews, and my wish is that it should be repealed. But it is our duty to put the best construction we can on the Act of Parliament; and, in so doing, we entertain no doubt whatever that, according to the existing law, Jews are excluded from sitting in either House of Parliament."²

Clearly, the injustice of the existence of a statute which prevents a portion of the country's inhabitants from enjoying full political rights is apparent. But not only did the court realize the injustice, but

1. 7 Exchequer p.542
2. 8 Exchequer p. 787

Parliament itself did. I do not refer to the many individual proponents of the Jewish cause. I refer to the action of the Parliament as a body. For the violation of the Statute, Mr. David Salomons was not only obliged to pay a fine, but he was to be deprived of certain rights he already possessed. Parliament recognized that such consequences were inevitable to the Jews unless some measure of relief was passed. Accordingly the Disabilities Repeal Act¹ received Royal assent June 30, 1852. By the statute, the disabilities imposed upon Mr. Salomons because of his actions in violating 1 Geo 1st v.c. 13 was removed but the pecuniary penalties were retained.² Consequently his political status was not harmed and in 1855 was able to assume office of Lord Mayor of London and in 1859 after the Jewish Relief Act came into force, he took his seat in Parliament. Again; I think that this act of 15 and 16 Vict. c 93, the Disabilities Relief Act of 1852 shows the willingness on the part of Parliament to do away with the manifest injustice.

It should also be remembered that the final judgment of the Miller vs Salomons case as rendered by the higher court, the Exchequer chamber, was sent to the House of Lords on a writ of error.³ but was not proceeded with. This want of prosecution⁴ from a practical point of view meant that the proceedings in the House of Commons was regarded as legally valid. Thus the situation stood in 1853.

In February 1853, Lord John Russell⁵ who was then Secretary of State for foreign affairs, again introduced the subject in the House of Commons. The final outcome of the affair of Mr. David Salomons was not

1. 15 and 16 Vict. c. 43

2. Hans. vol 121, p. 190

3. Hans. vol 147, p. 108

4. Hans. vol 147, p. 108

5. Hyamson p. 332

satisfactory and the legislature was not willing to remain content with matters as they stood. Accordingly when Lord John Russel introduced the subject of Jewish disabilities against and asked that he be permitted to bring in a Bill regarding this matter, a motion to that effect was carried¹ by a vote of two hundred and thirty four as against two hundred and five. The closeness of the vote shows the interest. The report of debates shows that an animated discussion took place. A Jewish disabilities Bill was brought in and read for the first time on March 1, 1853.² The second reading in the House of Commons was carried by a majority of 59,³ and the third reading of the House of Commons was carried by a majority of fifty eight.⁴ The Bill was then sent up to the House of Lords where it was rejected on the second reading by a vote of one hundred and sixty four against one hundred and fifteen.⁵ The proponents of the Bill doubted its passage, yet they had ~~hoped~~ hoped it might.

In 1854 a new method was pursued. Lord John Russel was still leader of House of Commons and he now elected to change the form of oaths necessary for those who are to take their seat in Parliament. If the proper wording could be accepted by the branches of the legislature, then a Jew could take the oath. Accordingly the Parliamentary Oaths Bill was introduced. It substituted a single oath instead of the three Oaths of Allegiance, Supremacy and Abjuration, and the oaths that the Roman Catholics were to take under the Catholic Emancipation Act of 1829.⁶ This proposed oath caused heated discussion. Not only were the Jews involved, but also the Roman Catholics. For it abolished the Roman Catholic Oath.

Hans. vol 124, p. 622

2. Haymson p. 352

3. Hans. vol 125, p. ~~118~~ 118

4. Hans. vol 125, p. 1287

5. Hans. vol 125, p. 795

6. 10 Geo IV, c. 7.

The opposition to the Bill argued not only against the fact that this would admit Jews to Parliament, for it was clear that the adoption of the Bill meant just that, but it also argued against the Roman Catholics. Lord John Russell tried to make clear that the object in presenting this Bill was for the relief of the Jews and not for any other reason. The vote on the second reading was very close, by a vote of 251 against 246.¹ Even Mr. Disraeli voted against it. His reason was that though he consistently voted for removal of Jewish disabilities, the controversy brought up by the Papal claims in this case obligated him to object this time. The small majority might lead one to feel that in a different form the House might have passed it. This is the first time that Jewish emancipation was delayed by a vote of the House.^{of course} Because of the fact that this Bill came so near passing, I think it would be of interest to read the actual oath proposed.

"I, a. b. do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, and I will defend her to the utmost of my power against all conspiracies and attempts whatever which shall be made against her person, crown or dignity; and I will do my utmost endeavor to disclose and make known to Her Majesty, her heirs and successors, all treasons and traitorous conspiracies which may be found against her or them; and I do faithfully promise to maintain, support and defend to the utmost of my power the succession of the crown, which succession by an Act entitled "An Act for the further limitation of the Crown and better securing the Rights and Liberties of the Subject", is and stands limited to the Princess Sophia, Electress of Hanover, and the heirs of her body, being

Protestants, hereby utterly renouncing and abjuring any obedience or allegiance unto any other person claiming or pretending a right to the crown of this realm; and I do declare that no foreign prince, prelate, person, state or potentate hath or ought to have any temporal or civil jurisdiction, power, superiority or preeminence, directly or indirectly within this realm, so help me God."¹

A careful reading of the proposed oath indicates that there is nothing objectionable in it for a Jew. Had it passed, the Jew could have taken it as a prerequisite to sit in Parliament. Yet the opposition refused to pass it. To apologize for those who defeated the proposed Bill requires an abundance of Charity.

The next step was to attempt the removal of the oath that blocked the traffic leading to political emancipation for the Jew. In 1856 Mr. Milner Gibson introduced a bill to abolish the oath of abjuration. It was well known that the only objection to membership in Parliament by the Jews was the last clause of this oath. Furthermore, since the old Pretender and his descendants ~~had~~ had no more claim to the throne, it seems absurd to renounce and abjure allegiance to him, which renunciation is the direct object of that oath. Surely, if it was really desired to extend political equality to the Jew, if England really desired not to exclude Jews as such from its parliament, there could be no objections to the abolition of the ~~an~~ obsolete oath. Lord Palmerston, the Prime Minister, supported the Bill. Objection arose that by passing this measure, the Jews would be indirectly admitted. To the credit and broadmindedness of the Prime Minister, it must be remembered that his answer to this objection

1. J.Q.R. 19, p. 765

was that the only obstacle to the admission of Jews to Parliament was just this clause which was unintentionally and indirectly erected as a barrier. The bill was also heartily supported by Mr. Disraeli, though his view was that the clause "upon the true faith of a Christian" be retained and a special clause to be inserted to exempt the Jews.¹ The second reading in the House ended 230 to 195.² At the third reading Sir F. Thesiger's amendment to add "upon the true faith of a Christian" was rejected by 159 to 100 and the Bill went to Lords. There it was bitterly opposed and was refused at the 2nd reading by 110 to 78.³

In April 1857, Lord Palmerston was retained as Prime Minister after a general election and Baron de Rothschild was re elected as a member for the city of London. Early one of the first matters to be discussed was again that of the Jew. This time the Prime Minister himself on May 15, 1857 presented an Oaths bill which was almost like that of Lord John Russell of 1854. This one eliminated the provision in the former bill of 1854 regarding Roman Catholics. Furthermore it omitted the obnoxious clause. It provided for one oath which was so designed as to permit Jews to sit and vote in Parliament. It passed the first and second Readings in the House of Commons. Sir F. Thesiger had announced, that this new oath was an improvement over the old one though he still felt that something regarding the Christian Character of the oath should be retained. Accordingly he ~~proposed~~ proposed in committee that these words be added:- "And I do make this promise, renunciation, abjuration and declaration, heartily, willingly, truly on the true faith of a Christian."⁴ This amendment was rejected 201 to 341 by a majority of 148.⁵ The third reading of

1. Hans. vol 141, p. 735

2. Hans. vol 141, p. 756

2a. Hans. vol 142, p. 197

3. Hans. vol 142, p. 1805

4. Hans. vol 156, p. 1341

5. Hans. vol 145, p. 1857

of the Bill in the House was carried by 291 to 168,¹ but these provisions were included: 1. No Jew should hold high offices of State from which Roman Catholics were excluded by Catholic Emancipation at 1829. 2. No Jew exercise any ecclesiastical patronage which might be attached to offices they might hold.

In the House of Lords it received favorable support from leaders and former opponents, yet it was rejected on second reading 171 to 139.²

During the same session, July 21, 1857, Lord John Russel moved to bring another Bill with the same object in view. This was but a week after Lord Palmerston's bill was rejected on second reading in Lords. His new bill was called Oaths Validity Amendment. Its object was to extend the principle of the Oaths Act of 1838³ which enables a person to take an oath according to the form and ceremony binding on their own conscience, so as to make it apply to the oaths to be taken by members of Parliament. This did not receive the willingness of the government to have it discussed. There was other business during the session that had to be taken up and so it was abandoned. But notice was made that a similar measure would be introduced in the next session.⁴

In the meantime Baron de Rothschild again resigned and is re-elected on August 3, 1857. One more fact must have be noted. Lord John Russel moved in House of Commons for appointment of a committee to "consider whether the Statutory Declaration Act of 1836"⁵ which permits a statutory declaration containing nothing objectionable to Jews, to be substituted for an oath in certain cases, was applicable to the oaths to be taken by members of parliament. It was reported that the ~~present~~ provisions of the act were not applicable to the Oaths which members of the House were bound to take before assuming their seats.⁶

1. Hans. vol 145, p. 365
2. Hans. vol 146, p. 1275
3. 1 and 2 Vict. c. 108

4. 5 and 6 Wm IV c. 62
5. Hans vol 147, p. 933060
6. Hans vol 146, p. 1772-80

Lord John Russel's Oath provided to "substitute an oath of Allegiance, Supremacy and Abjuration," and for the Relief of her Majesty's subjects professing the Jewish religion. This oath differed from that of Lord Palmerston of the previous year in that it added the words "And I make this declaration on the true faith of a Christian." But the Bill also contained a clause 5 which provided that a Jew might omit the obnoxious words. Another clause was contained in this Bill which was designed to extend to all offices the Jewish Disabilities Removal Act of 1845 (which applied only to admission to municipal offices). The Jewish disabilities Removal Act of 1845 provided that any person of the Jewish religion might substitute a new Declaration (which contained nothing objectionable to a Jew) for the old Declaration which is contained in an Act passed in 1828.¹

On February 10, 1858 the Bill came up for a second reading in House of Commons. However, Sir F. Thesiger announced he would move that clause 5 be omitted.² When it came up for 3rd reading³ the House of Commons, and Mr. Newdegate on behalf of Sir F. Thesiger (who in the meantime was made Lord Chancellor and thereby became member of the Upper House) made a motion to strike out clause 5 which was a special provision in favor of Jews when called upon to take the new oath. This motion was lost 144 to 295.³ The Bill now came to the House of Lords. In the Committee (formerly Sir Frederick Thesiger) now Lord Egmont Chelmsford, Lord Chancellor, moved that clause 5 be omitted.⁴ It passed, as amended, the third reading in the House of Lords and then returned to the House of Commons. But as amended it destroyed the purpose for which Lord John Russel drew it up. As amended, the Bill was unsatisfactory and it was decided by a vote of 251 to 196⁴ that Baron de Rothschild be appointed on a Committee, which, by a motion that was carried, should draw up reasons why the House of Commons disagreed with the amendments made by the House of Lords.

1. 9 Geo IV c. 17

2. Hans. vol 148 p. 1084

3. Hans. vol 149 p. 547

4. The clause would enable Jews to sit in Parliament.

4a Hans vol 150 p.44; 150 p 336. 430-443

Here was a peculiar situation. Under I Geo I Stat. 2, c.13, one could not sit nor vote in Parliament unless he took the prescribed oaths. Yet such a one could be appointed on a committee to serve by the side of any other qualified member of the House who did take the required oaths. Upon a search in the records it was found that as early as 1715, Sir Joseph Jekyll was permitted to be a member of a Committee of the House of Commons, although he was not sworn at the Clerk's table.¹ Sir Joseph Jekyll was Chief Justice of the County of Palatine of Chester, and his absence on circuit was the reason for his not having taken "the oaths". With him it was not a case of not taking the oaths because of objectionable clauses. This shows that the appointment was legal and that the exclusion of Jews from full rights of parliament was a "legislative fraud."

The reasons that the Committee of the House of Commons, including Baron Rothschild, drew up as an objection to the amendments made to the Bill by the House of Lords, and in consequence of which the Jew would still be prevented from taking a seat and from voting in Parliament are as follows:

"I. Because the words "on the true faith of a Christian" were originally introduced into the oaths to be taken by members of Parliament with a view to bind certain Roman Catholics and were not intended for the purpose of excluding persons of the Jewish Persuasion.

II. Because the exclusion of British subjects from seats in Parliament and offices in the State on the ground of their religious opinions is contrary to the general maxims of freedom of conscience.

III. Because no charge of disloyalty or unfitness for public employment, and a fair share of legislative power has been alleged, or can be alleged, against the Jewish community.

1. Cabbett's. Par. Hist. vol VII, p. 57

IV Because the infliction of disabilities upon any class of Her Majesty's subjects, solely on the ground of their conscientious adherence to their faith savors of persecution, and is totally inconsistent with those principles of religious liberty which in the case of more powerful communities, have been applied by Parliament with such happy effects.

V. Because the Commons have already on ten previous occasions and in five Parliaments, passed Bills removing the civil disabilities of the Jews, and having of late years agreed to such Bills by constantly increasing majorities, are convinced that the opinion of their constituents and of the country at large, has been irrevocably pronounced in favor of the removal of such disabilities.

VI. Because such Bills have been supported by many of the most eminent members of both Houses of Parliament who, while differing upon other political questions, have concurred in the justice and expediency of measures for the relief of the Jews.

VII Because the rights of the Electors of the United Kingdom have been peculiarly affected by a law which has been construed to prevent the admission to the House of Commons of persons who have been lawfully returned as members of that House.

VIII Because the first and third clauses of the Bill are open to construction that the New Oath, which the former of them contains, should be taken not only in all cases where the Oaths of Supremacy, Allegiance and Abjuration are now required, but also where the Oaths of Allegiance, and Supremacy are at present required, though without the Oath of Abjuration; the result of which construction, if the Bill should pass into law without the fifth clauses would be to exclude the Jews from practising as solicitors and barristers and from offices under the Crown, to which

employments and offices they are now admitted.

IX Because such result would be contrary to the intention of the two houses of Parliament appearing from the sixth clause, and from the title of the Bill under consideration."¹

This sums up the attitude in favor of the Jew on the eve of his admittance to Parliament. After this a conference between the two Houses ensued.² Of the two Bills brought in as compromises from the House of Lords, that of Lord Lucan known as the Jewish Relief Bill, provided that "any person professing the Jewish religion, when taking the oath substituted, by the Oaths Bill (of Lord John Russel) of the present session for the Oath of allegiance, Supremacy and Abjuration, might omit the words 'and I make this upon the true faith of a Christian.'³ This enabled one to sit and vote in Parliament. Another provision was that "persons professing the Jewish Religion may omit the above mentioned words in the said oath in all other cases in which they might be required to take it. The third reading in the House of Lords passed by a vote of thirty three to twelve."⁴

The Lord's reasons for insisting on their amendments are interesting and relevant here, for they show the attitude of those who tried every possible means to hold the Jew out of Parliament. They are as follows:

"1. Because although the words "on the true faith of a Christian" were originally introduced into the Oath for the immediate purpose of binding certain Roman Catholics, it is unreasonable to assume that the Parliament which so introduced them did not intend that the profession of Christianity should be a necessary qualification for admission to the Legislature, when they enacted that a Declaration of that faith should form part of the Oath required to be taken by every member of both Houses.

1. Hans. vol 150, p. 529

2. Hans. vol 150, p. 858 and 859

3. J.Q.R. vol 19 p. 780

4. Hans. vol 151, p. 1258

II Because the constant intention of the legislature may be further inferred from the fact that neither at the time of the introduction of these words were the Jews admissible nor have they at any subsequent period been admitted to sit and vote in either House of Parliament.

III Because exclusion from seats in Parliament and offices of the State on the ground of religious opinion and for other reasons where the general good of the State appears to require it, is a principle recognized in the settlement of the succession of the Crown and in other cases; and has moreover, been further and recently sanctioned by the House of Commons in some of the provisions of the present Bill.

IV. Because, without imputing any disloyalty or disaffection to her Majesty's subjects of the Jewish persuasion, the Lords consider that the denial and rejection of that Savior, in whose name each House of Parliament daily offers up its collective prayers for the divine blessing on its councils, constitutes a moral unfitness to take part in the legislation of a professedly Christian community.

V. Because when the Commons plead in support of their views, in a matter which equally concerns the constitution of both branches of the legislature, their repeated recognition of the expediency of removing this disability of the Jews, and admitting them to their councils, the Lords desire to refer to their equally firm adherence to the principle of retaining those privileges which they believe to be peculiarly and inseparably attached to Parliament as an exclusive Christian assembly."¹

The Jewish Relief Bill of the House of Lords with its amendments came before the House of Commons and on the second reading was passed by a vote of one hundred and fifty six as against sixty five."²

1. Hans. vol 151, p. 1256

2. Hans. vol 151, p. 1902

But one more step remained to bring the long struggle for Jewish political emancipation to a close. Now that both the House of Lords and the House of Commons gave assent by their vote to the request that Jews be permitted to sit and to vote in Parliament, it needed the Royal assent. Accordingly on July 23, 1858 such assent was obtained for both the Jewish Relief Bill of the House of Lords and the Oaths Bill of the House of Commons. Henceforth a Jew could sit in either House and could vote. On July 26, 1858 Baron de Rothschild came before the table and with covered head took the new oath with the omission of the final words and substituting "So help me Jehovah."¹ This final Act is found in 21 and 22 Vict. c. 49² and is an Act³ to provide for the relief of Her Majesty's subjects professing the Jewish Religion. By section I either House is empowered to modify the form of oath, so as to enable a Jew to sit and to vote. By section 3, Jews are precluded from holding certain offices. Hence, the situation is this, that though all the offices of the realm are not yet thrown open, and also a Jew might yet be held out if the House used discretion to hold him back, yet for all practical purposes, he was now on an equal footing with non-Jews. Subsequent Acts did not alter the situation. They only made less cumbersome what was passed as a compromise in 1858. For example, the Parliamentary Oaths Act of 1866⁴ finally settled the wording of the new oath, which could be taken by all subjects. The oath is much simpler. It is as follows:⁵

"I, A.B. do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, and I do faithfully promise to maintain

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1. Hyamson p. 333
 2. ~~See p. 399~~
 3. J.E. I, 173a
 4. 29 and 30 Vict. c. 19
 5. J. & E.L. p. 301 note 2

and support the successor to the Crown, as the same stands limited and settled by virtue of the Act passed in the reign of King William the Third, entitled "An Act for the further limitation of the Crown, and better securing the rights and liberties of the Subject," and of the consequent Acts of Union with Scotland and Ireland, so help me God."¹

It was under this oath that Lord Rothschild became the first Jewish peer in 1886². At last in 1871 the Promissory Oaths Act³ was passed. This is really a blanket act which repeals all previous statutes that contained disabilities. This opened up the highest offices of the State. From this moment the emancipation from all political disabilities is complete.

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1. J.Q.R. vol 19, p. 787
 2. Hyamson p. 334
 3. 34 and 35 Vict c. 48

CHAPTER IX

THE ACQUISITION OF THE RIGHTS TO PRACTICE AT BAR

The right of practicing the legal profession is not regarded by H.S.Q. Henriques, M.A. B.C.L. as a political right. In fact he regards this as a civil right.¹ As a matter of fact the government regards those who practice law as its officers. By virtue of this position, they take an oath in United States as well as in England, to enforce the laws of the land. Privileges and immunities of various kinds are granted him by virtue of his unique position of a private citizen recognized as a public servant. Therefore I include the practice of this profession as a political right and therefore must be included in this thesis.

At the time of the re-admission, the rights of the Jew were so abridged that one would hardly expect he could take part in the government of the people. Furthermore it must be remembered that oaths were required to be taken by those entering the legal profession.² These had to be taken upon the Evangelists and therefore would make it impossible for a Jew to take. Since the invention of the Oath of Abjuration in 1701³ which received alterations later but which contained a clause "upon the true faith of a Christian" it became again impossible for a Jew to enter the profession of law because such entrance had to be preceded by the taking of the oath.

The Indemnity Act passed in 1728⁴ enabled anyone who had to take the oath to do so later, should he enter upon his duties neglecting to fulfil the necessary preliminaries, provided he did so before November 28, 1728. Every year this act was passed, and the time was always extended for those who were incapacitated to become capacitated. In actual life the Jew could practice law so long as the Indemnity Act⁵ was annually passed. Of course,

1. J. & E. L. p. 202

2. 5 Eliz. c. 1 s. 5 and 7 Jac. 1 c. 6. ss. 12-16

3. 13 and 14 Wm III cap 6

4. 1 Geo II St. 2, c. 23

5. 1 Geo II stat. c. 23

there was the danger of the act not being passed, though now we know that it was passed annually until after the middle of the nineteenth century. The Act of 1737¹ specifically obliged "every person who shall act as a sargent at law, counsellor at law, Barrister, advocate, attorney, solicitor, writer in Scotland, Proctor, Clerk or notary" had to take the oath of Abjuration. Thus no Jew could practice law unless he took advantage of the annual indemnity acts.

Furthermore it must also be remembered that aside from the statutes that may permit or disqualify a Jew from entering the legal profession, he must be accepted by societies who may impose conditions^{with} which a Jew cannot comply.² In the United States, one has to be admitted to the Bar by the Bar Association to practice. So the societies in England were not bound by Parliament. For example, the "Society of Gentlemen Practisers" of the lower branch of the profession and the "Inns of Court" of the higher branch, ~~xx~~ both of which are voluntary organizations, possessed the privilege of granting the right to admit individuals to practice in the respective courts. Only those whom the "Society of Gentlemen Practisers" permitted could practice as an attorney of the King's Bench. And only those whom the "Inns' Courts" permitted could plead as a barrister-of-law in a superior court. No one has an inherent right to enter these organizations. He must be elected into these organizations. Also, once elected, he had to take certain oaths and the oath of abjuration. They could also insist that the oath be taken on the New Testament. Thus we see the barrier. Yet in 1770 Joseph Abrahams was admitted as a solicitor by the "Society of Gentlemen Practisers" He was permitted to omit the obnoxious final words of the oath of Abjuration. He is the first Jew to enjoy this political right. In 1833, M. Francis Goldsmith³ who had been admitted previously to

1. 9 Geo II c. 26

2. J. Q. R. 4 E. L. 1, 202

3. Picc. 322

the society applied to be admitted to Lincoln's Inn¹ and to be permitted to take the oath without the final words. After considerable discussion his application was granted.² On May 9, 1828 Mr. I.L. Goldsmith wrote a letter to the Duke of Wellington on behalf of his son F.H. Goldsmid who at this time intended to practice law.³ The passing of the act of 1828⁴ seemed to spell danger to a custom which grew up, viz, that when a Jew took the Oath of Abjuration as a preliminary to practicing law, he was permitted to omit the obnoxious words. From this letter we learn that even before 1833, Jews did partake of this political right.

1. Hyamson p. 322

3. J1H.S.E. vol 4 p. 133

2. Picc. p. 396

4. 9 Geo. IV.

CHAPTER X

THE POLITICAL STATUS OF THE JEW IN THE AMERICAN COLONIES

Since the American Colonies until the American revolution were under British rule, the same political condition, so far as the Jew is concerned, should prevail. With little exception this is true. In 1740 the Plantation Act¹ was passed which provided that Jews who live in the American colonies for seven years may become naturalized without taking the sacrament of the Lord's supper and without pronouncing the words "upon the true faith of a Christian" when taking the oath of abjuration. This special privilege given to the Jew enabled many of them to share in the government of the colonies. Consequently they prospered here and later gave material aid when the revolution broke out. After the revolution, the political status of the Jew on this side of the Atlantic had a great influence in bringing about the emancipation of the Jew in England.²

It seems that in New York, when that territory was under the rule of the Dutch, the Jew did not suffer under many disabilities. In 1657 we learn Salvador D'Andrada and other Jews were given rights of citizenship.³ When the British took over New Amsterdam, they agreed that all⁴ who live there shall continue in their rights as before. Therefore Jews though Peter Stuyvesant the governor always manifested a spirit of antipathy towards them, did enjoy rights of citizenship at this time.⁵ Later, however, the disabilities for the Jew increased⁶. In 1683 an Act was passed by the Colonial Assembly for naturalization of foreigners. Jews were excluded⁷ from its benefits. In 1715 legislation for the naturalization of alien residents in New York was specifically confined to Protestants.⁸ In 1723

1. 13 Geo II c.7

2. Lucien Wolf - American Elements in the Re-Settlement

3. Daly 48

6. Hayamson pl 256

4. Daly 48

7. Daly p. 24: Hyamson 256

5. Wiernik, Hist of the Jews in America, p.67

8. Hayamson p. 257

an act was passed naturalizing certain aliens among whom were six Jews.¹ On November 15, 1727 the General Assembly of New York enacted laws permitting Jews to take the Oath of Abjuration without the obnoxious words.² In 1737 an incident occurred that compelled a decision as to whether Jews could enjoy the right to vote. Col. Frederick Phillips was elected as representative to the General Assembly for the County of Westchester.³ The election was contested. In consequence of the investigation that followed, it was found that Jews had voted and it was decided they were unqualified to vote. The argument used was that the laws of England were binding here. And since at this time the Jew could not vote in England, he could not do so here. In 1748 the Jew enjoyed all the privileges that the neighbors did except the right to vote for member of the Colonial assembly.⁴ Thus the condition for the Jew in New York was not the same as in the mother country. More privileges were granted here. Yet when the legislature wanted to ~~xx~~ impose restrictions it never failed to use the customs and laws of England as a basis.

An opposite history exists for the Jews in Rhode Island from that which we know of in New York. In Rhode Island, at the time of the re-admission of the Jew in England, the Jews received rights of nationality at once.⁵ Here Roger Williams ruled. He was a powerful protagonist for religious liberty and when in England he never failed to take part in whatever legislation was going on that favored religious toleration. He always favored the Jews. It was but natural that the Jew should not be restricted in Rhode Island at this time when the Newport Colony was founded and was under the presidency of Williams.⁶ But this spirit of tolerance did not last long. The tide moved the other way. In 1762 Aaron Lopez and Isaac Eleazer

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1. Daly p. 44
 2. Daly p. 44. A.H.M. p. 257
 4. Daly p. 56
 3. Wiernik p. 69
 5. Hyamson p. 255
 6. Hyamson p. 179

applied for naturalization¹ and it was granted. Afterwards it was revoked by a decree of Superior Court. The argument used was that it violated the law of England of 13 Geo II. The next year, 1763, an Act was passed that anyone other than a Christian may not be admitted freedom to the colony.² This is contrary to what was assured in 1652 when the colony was under Roger Williams. This shows that just before the Revolution, the Jew enjoyed no political rights in Rhode Island.

As for the other colonies, we know little about their political status relative to the Jews. In Pennsylvania, we can almost assume that Jews did enjoy political rights. We know that at the time of the Revolution the Jews gave financial and military aid. Haym Salomon, a private wealthy Jew advanced \$658,007.00 to the government and supplied many officers with money.³ It seems likely that Jews fared well in this state.

In Maryland, however, the opposite existed. Until long after 1800 Jews could not even live in this state.⁴

As for Georgia, the Jews settled there but against the advice and consent of the ruling powers in England.⁵

In General, it can be said with respect to the political status of the Jew in the British American colonies during the period being considered that the Jew enjoyed more rights than he did in England.^{***} Shortly thereafter, the Jews had a great deal of influence in bringing about political emancipation for the Jew in England.

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1. Daly p. 82
 2. Daly p. 84
 3. Daly p. 58
 4. Daly p. 63
 5. Daly p. 64 et seq.

***GENERAL NOTE: In 1776 the Jew here was no longer under England and therefore a discussion of the status of the Jew after that date is not within the confines of this thesis.

CONCLUSION

During the Commonwealth, under Oliver Cromwell, the terminus ab quo of the present thesis, the Jew as such had no political status. He¹ was neither an alien, denizen, or native, because of the fact that he was a Jew. The same individual might be a denizen if he be classed in a different category, e.g. Spaniard and the like. Those Spanish and Portugese marranos or cryptic Jews were Spaniards by birth, but they had no rights in the land of their birth. In England, they lived by virtue of the good graces of the people. Nevertheless, it was as Spaniards, that letters patent of denization were granted them. The prevalent opinion is that the Jew had no political status at this time. In my opinion, the Jews did have such standing. Endenization is a form of British nationality. Antonio Fernandez Carvajal was made a denizen August 17, 1655² This "denization" had already invested him with all the privileges of a British subject."³ True he was under certain civil disabilities under which he was compelled to pay alien duties, but he did possess, though in a limited form, political status. It is of interest to note that such privilege was granted A.F. Carvajal in a few months before the arrival of Menasseh ben Israel. Furthermore, the two sons of Carvajal also received letters patent of endenization.⁴ In 1660 with the accession to the throne of Chas II⁵ more Jews received such rights. Because Chas. II was liberal in his policy in this matter, by 1661 most Jews were endenized. Hence the fact that Jews were endenized even though it may have been given them because they were Spaniards, yet as Jews I think they possessed a modicum of political rights.

1. L. Wolf in J.H.S.E. vol 4 p. 177

2. R.J.E. p. 32; also J.H.S.E. vol 2 45 and 46

3. J.H.S.E. vol 2 p. 21

4. R.J.E. p. 5

5. Thomas "Hist of Eng. p. 353

Surely the authorities knew that these same individuals were Jews. After the Robles case¹ the Jews including Carvajal professed their religion openly. All this occurred in spite of the grudging manner in which Jews were recognized² In his *Vindiciae Judaeorum*^{2a} section 7, Menasseh ben Israel says, "For seven years (since 1649) I have endeavored, and solicited it by letter and other means, without interval" yet he did not receive any recognition of status. The weakness of the second petition of Menasseh ben Israel, March 24, 1656, ~~only asks~~ is significant. The request is exceedingly modest. He only asks for (1) protection in writing for meeting privately in their own houses for worship. (2) a license to bury their dead in a convenient place without the city. Yet this was not granted. Since the most elemental civil and religious rights were not granted, how could political rights be expected?

In the middle of the next century we find that the Jew almost acquired the right to be a citizen of England. Parliament was really ready, in fact it did give this right to the Jew.³ But because of a political situation, because of the lack of courage of Parliament, and because of the undue political excitement of the mob, Jewish emancipation was delayed a complete century.

The real fight for the removal of all disabilities upon those who professed the Jewish religion did not commence until 1828. In thirty years, the Jew was able to receive the concession of omitting the phrase "upon the true faith of a Christian" from that oath which every one must take in order to become naturalized, in order to hold a political office, in order to practice law and in order to vote and in order to sit in Parliament. This is but another way of saying that in 1858, to all practical

1. R.J.E. p. 54 ff

2. The failure of the petitions of Dormido and of Menasseh ben Israel show how much opposed the population was to the Jews.

2a Published April 10, 1656

3. Naturalization Act of 1753

intents and purposes the Jew had received political emancipation. It is true that at this time some offices under the Crown were still closed to the Jew. But by 1871 even these were opened to him. Since 1871 it can truly be said that the Jew has enjoyed complete emancipation in England from all political disabilities.

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