

# Lobbying by Jewish Organizations Concerning Immigration: A Historical Study

MICHAEL J. CHURGIN\*

The period from 1909 to 1913 was one of massive immigration to the United States as approximately one million persons passed through the ports of entry annually by the end of the time frame.<sup>1</sup> Several groups closely monitored the administration of the immigration laws with special attention being paid to persons of the same ethnic origin. The Hebrew Sheltering and Immigrant Aid Society (HIAS)<sup>2</sup> appears to have been among the most active organizations and regularly assisted Jewish immigrants at various points through the process of admission, including appeals from decisions to deny entry. The society and other Jewish groups were careful to cultivate Charles Nagel, Secretary of Commerce and Labor during the presidency of William Howard Taft. The Immigration Bureau was part of his department, and he served as the final decision maker in immigration administrative appeals. In addition, he was the contact person for the Taft administration with various ethnic communities.<sup>3</sup> This paper is a study of the Jewish lobbying efforts during this period.

The lobbying took two different forms. One was day-to-day activity, advocating for immigrants in individual cases through the administrative process and handling internal appeals from decisions at the ports of entry to the departmental level in Washington, D.C. The other was systemic, urging new initiatives in the area of immigration. At times, the two strains seemed to be in conflict, as some feared offending departmental officials by criticizing the overall administration, particularly concerning the proposal to establish a program to admit Russian Jews to the United States through Galveston, Texas.

---

\* Raybourne Thompson Centennial Professor, The University of Texas School of Law. I am grateful to the American Jewish Historical Society (then in Waltham, now in Manhattan) for permission to consult various archival collections. I presented an earlier version of this paper at a conference entitled "Strangers No Longer: Immigration Law & Policy in the Light of Religious Values" at Fordham University Law School on February 25, 2005.

1. See Dept. of Commerce and Labor Ann. Rep. (1910 to 1913) (in March of 1913 it became the Department of Commerce).

2. The organization is now known as HIAS, the Hebrew Immigrant Aid Society; see Hebrew Immigration Aid Society, <http://www.hias.org>.

3. See Michael J. Churgin, *Immigration Internal Decisionmaking: A View from History*, 78 TEX. L. REV. 1633, 1634 (2000).

There were Jewish groups assisting immigrants at the significant ports of entry. While the overwhelming number of persons entered through Ellis Island in New York harbor, some individuals entered through the ports of Boston, Philadelphia, Baltimore, and other locations. Many of the governmental officials dealing with the administrative review of decisions to exclude immigrants viewed all the Jews lobbying for admission to be part of one entity. The February 28, 1912 minutes of the National Jewish Immigration Council, a New York based organization, contains the following statement by the representative of HIAS at Ellis Island:

I found recently, for instance the officials at Washington distinguish between cases that are appealed by attorneys and cases that are appealed by Jewish Societies; they think that the Jewish Society in New York, Boston, Philadelphia and Baltimore are one and the same organization. They do not know the difference; they know the Jewish Society . . . let them believe it is one organization throughout the country.<sup>4</sup>

Simon Wolf, an attorney in Washington, represented HIAS in the various immigration appeals at the departmental level. In addition, he seems to have been perceived by various officials as representing all Jews seeking admission. Wolf was a constant presence at headquarters, personally speaking with departmental officials in their offices about immigrant appeals, and occasionally, being sought out for assistance in supplying more information about various cases. Immigration files reviewed that involved Jewish immigrants would have the notation "Advise Mr. Wolf" handwritten on the final decision, whether he was the attorney of record in the case or not.<sup>5</sup> In a speech to a Jewish group, Nagel noted the special role of Wolf, as someone who "keeps a pretty close watch on us. If we ever miss him, we think the world is going to stop. I frequently inquire about eleven o'clock, 'Has Wolf been here?'"<sup>6</sup>

The selection of cases for appeal caused HIAS some concern. A decision was made only to handle cases with "true merit." To avoid confusion, no lawyer who was a member or officer of the HIAS board was allowed to represent an individual in a case before the department, and no

---

4. Minutes of National Jewish Immigration Council, at 7 (February 28, 1912) (on file with the American Jewish Historical Society).

5. See, e.g., Case of Peisach Milkewitz, #53192/91, immigration files of the Department of Homeland Security. See also American Jewish Historical Society, Letter from Simon Wolf to Max Kohler (February 20, 1911) (Wolf indicating that Secretary Nagel discussed cases with him). At times, Wolf would be asked by the department to pass on information to an immigrant, Letter from Charles Nagel to Ralph Bamberger (February 20, 1911) (on file with Yale University). For a discussion of the immigration files reviewed, see Churgin, *supra* note 3, at 1634 n.10 and accompanying text.

6. 1 CHARLES NAGEL: SPEECHES AND WRITINGS 1900-1928 151 (Otto Heller ed., 1931).

specific attorneys should be recommended for cases declined.<sup>7</sup> The goal was to maintain a high degree of credibility. As one HIAS representative pointed out, “[Ellis Island] Commissioner Williams admitted frankly to me that he would look upon cases handled by the society as more worthy of admission, than those not handled by us.”<sup>8</sup> The society representative went on to concede that “[i]n order to protect the great number for whom we are responsible it has often been necessary that some individuals must suffer.”<sup>9</sup> If once worthy cases came to be viewed as unworthy because of inaccurate representations or intervening events, apologies would be made to department officials, and negative information might be turned over to immigration officials.<sup>10</sup>

To maintain its credibility, the society did not represent individuals already present in the United States in deportation cases. The fear was that such representation would “weaken the standing” of HIAS in the eyes of federal immigration officials and “directly arraign Jewish charitable societies against state and municipal authorities over persons who have become public charges,”<sup>11</sup> a statutory ground for deportation. The appeal workload was considerable. The assistant secretary told Wolf at one point that “we will have to have an extra Secretary of Commerce and Labor just to attend to cases of Jewish immigrants.”<sup>12</sup> Wolf reported that in the eleven months from March 1, 1911 to January 31, 1912, there were 487 appeals to the department in Washington, involving about 2000 immigrants. Three-hundred and thirty seven were successful, while 149 were not.<sup>13</sup> However, when Nagel spoke to a Jewish audience and indicated, as an aside, that no one had told him about an immigrant wrongly admitted, an attorney on the HIAS board, remonstrated with the Secretary: “[P]hilanthropic organizations like ours are free to refuse to act in cases in which it is not clear that the best interests of the country, as well as the immigrant, would be aided by his admission.”<sup>14</sup>

There were some disputes between attorneys on the HIAS Board and the Secretary of Commerce and Labor about the manner in which

---

7. Minutes of the Committee on Immigration of the Baron de Hirsch Fund (November 11, 1911) (on file with the American Jewish Historical Society).

8. *Id.*

9. Minutes, *supra* note 4.

10. See, e.g., Dora and Joseph Winkel, #53246/388, and Ruchel Forma and children, #53370/137, immigration files of the Department of Homeland Security (the attorney-client relationship did not always protect the client when HIAS provided counsel).

11. Minutes, *supra* note 4, at 8.

12. Letter from Simon Wolf to Max Kohler (December 16, 1910) (on file with the American Jewish Historical Society).

13. Report of Simon Wolf to the National Jewish Immigration Council, *supra* note 4, appendix. For a description of the formal appeal process, see Churgin, *supra* note 3, at 1635-36.

14. NAGEL, *supra* note 6, at 157; and Letter from Max J. Kohler to Charles Nagel (January 21, 1911) (on file with the American Jewish Historical Society).

administrative decision making took place. Max Kohler, a key laboring oar on many Jewish organizations of the period, protested about the lack of transparency – that there was no availability of departmental appellate decisions. Secretary Nagel responded publicly:<sup>15</sup>

Now if we begin to write decisions in all these cases, you will simply keep your aliens in detention stations a little longer. . . . The general consequences will be worse, and the law will be more severely construed, because then I will have to stand for every single decision as precedent. The very thing that Mr. Kohler suggests . . . will make it necessary for me not to admit anybody unless I am clearly willing to admit everybody upon the same basis.

Similarly, Nagel rejected Kohler's insistence that the Secretary be limited to the record made at the board of inquiry at the port of entry in deciding appeals. Nagel claimed that his flexible construction of the law was dependent on his ability to obtain the "atmosphere of the case" by making inquiries and gathering additional information from people such as Wolf so he could exercise his "sound discretion" in determining the merits of an appeal.<sup>16</sup> At the same time, Nagel rejected complaints that if only the boards of inquiry and commissioners at Ellis Island and other ports of entry had been more reasonable, appeals would be unnecessary. As he told President Taft: "the strict officials should be in charge of the detention stations and that the general supervision, with right to hear appeals, should be in the hands of men more liberally inclined."<sup>17</sup>

One issue that particularly vexed the Jewish community leadership during this period concerned Russia and its treatment of its substantial Jewish population. This manifested itself in two ways: the poor treatment by Russian officials of American Jews of Russian origin carrying United States passports and large scale immigration to the United States of Russian Jewry. Jacob Schiff, noted financier of Kuhn, Loeb and Co., and a major philanthropic force in the Jewish community, took the lead and vigorously pressed the United States government to take action. By the beginning of the Taft administration, his twin goals were the abrogation of the treaty of friendship, commerce, and navigation between the two countries and furthering a new way to admit Russian Jews to the United States—through Galveston, Texas. Schiff felt that increased immigration to New York lowered the standing of the Jewish community because of the poor living conditions on the lower east side and that non-Jews felt overwhelmed by the influx. He had long espoused and helped to fund an Industrial Removal Office to attempt to persuade Jews entering the United States through Ellis

---

15. NAGEL, *supra* note 6, at 154-55.

16. *Id.* at 153.

17. Letter from Charles Nagel to William Howard Taft, immigration file #52730/8-B, Department of Homeland Security (April 16, 1912). See NAGEL, *supra* note 6, at 146.

Island to go anywhere other than New York. This was largely unsuccessful. The goal of the Galveston plan was to have the vessels carrying immigrants from Russia go directly to Galveston and avoid New York.<sup>18</sup>

Because of his role as the liaison to the minority communities for the Taft Administration, Nagel became involved with both the treaty question as well as the issue of organized immigration through Galveston. He found Schiff's attitude to be high-handed and was offended by the sharp attacks on Benjamin Cable, assistant secretary of the department, and the person who initially raised questions concerning recruitment of immigrants for Galveston and the quality of the immigrants. Cable also denied several appeals concerning Galveston immigrants who were excluded at entry.

Nagel advocated maintaining the treaty with Russia and prepared a memorandum for President Taft to this effect. In it, he also suggested that any abrogation might harden Russia's attitudes toward Jewish emigration.<sup>19</sup> In a subsequent letter to the President, Nagel complained of Schiff's tactics in stirring up popular support for abrogation by emphasizing that American passports were not being recognized by Russian authorities: "This discloses a readiness on his part to play upon a chord of popular prejudice which it must be said is usually played upon at his expense."<sup>20</sup> The bottom line for Nagel was his belief in the benefits of trade:<sup>21</sup> "In other words, ultimately more justice for the Jews would be secured by the enlightenment which attends and follows free commercial intercourse than rather be done by a threat or by a severance of relations."

In late 1911, Congress passed a joint resolution calling for the abrogation of the 1832 treaty between the United States and Russia after a carefully orchestrated lobbying campaign by the Jewish community. Taft acquiesced and formally notified Russia of the abrogation of the treaty.<sup>22</sup>

There was some concern within the Jewish community that lobbying on these issues would affect day-to-day advocacy on behalf of immigrants. Simon Wolf, in particular, pleaded for care in making public statements and a diminution in the rhetoric against Cable.<sup>23</sup> Schiff seemed to have

---

18. For a detailed discussion of Schiff's efforts, see NAOMI W. COHEN & JACOB H. SCHIFF, *A STUDY IN AMERICAN JEWISH LEADERSHIP* 144-68 (Brandeis Univ. Press 1999). For a comprehensive monograph on the effort to divert Jewish immigration to Galveston, see BERNARD MARINBACH, *GALVESTON: ELLIS ISLAND OF THE WEST* (State Univ. of New York Press 1983).

19. Charles Nagel, *Shall the Treaty of Commerce and Navigation of 1832 Between the United States and Russia be Terminated?* (February 14, 1911) (on file with the Yale University Library).

20. Letter from Charles Nagel to William Howard Taft (February 23, 1911) (on file with the Yale University Library).

21. *Id.*

22. COHEN & SCHIFF, *supra* note 18.

23. Letter from Simon Wolf to Max Kohler (October 15, 1910) (on file with the American Jewish Historical Society).

said, “New York does not want any more Jews,” and Wolf complained that the context of moving Jewish immigrants to other parts of the United States was lost. He claimed that those words had been thrown in his face by bureau and departmental personnel when considering appeals.<sup>24</sup> Kohler maintained that both Nagel and Cable were using Wolf to justify the departmental position on Galveston immigration.<sup>25</sup> As a result, Wolf seems to have been excluded from discussions within the Jewish community on Galveston issues.<sup>26</sup> Schiff admonished him that it “is well enough for you to keep on the right side of Assistant Secretary Cable, but we here cannot all agree with your judgment of his attitude.”<sup>27</sup> Of course, however, since he was present daily at the department, officials kept him in the loop, assuming he was involved in the Galveston question as all others.<sup>28</sup>

Matters came to a head in late 1910, and the President asked Nagel to convene a meeting at which Schiff, Kohler, and others could present their views on Galveston immigration to Nagel, Cable, and Attorney General Wickersham.<sup>29</sup> Reportedly, Schiff directly challenged Nagel: “You act as if my organization and I are on trial. You, Mr. Secretary, and your department are on trial. . . .”<sup>30</sup> Initially, the outcome was to be a request for a legal ruling from the Attorney General on whether inducements for Jewish immigrants to come to Galveston such as promises of employment were in violation of certain immigration provisions. Subsequently, Nagel saw his way clear to obviate that approach and keep control of the process within his department, and as he informed the President, “to pass upon the cases with just as much consideration as can be given to Mr. Schiff’s enterprise.” Nagel decided that the Galveston immigrants were not barred under the statutes and that they would be allowed to enter the United States.<sup>31</sup> The hard lobbying had been successful. However, the program

---

24. See Letter from Simon Wolf to Philip Cowen (January 25, 1910) (on file with the American Jewish Historical Society); Letter from Simon Wolf to Jacob Schiff (March 8, 1910) (on file with the American Jewish Historical Society).

25. Letter from Max Kohler to Jacob Schiff (September 30, 1910) (on file with the American Jewish Historical Society).

26. See, e.g., Letter from Simon Wolf to David Bressler (July 15, 1910) (on file with the American Jewish Historical Society).

27. Letter from Jacob Schiff to Simon Wolf (August 30, 1910) (on file with the American Jewish Historical Society).

28. Letter from Simon Wolf to Jacob Schiff (August 29, 1910) (on file with the American Jewish Historical Society) (“I did see your letter as Mr. Cable does not hesitate to keep me informed on all subjects in which I am personally and officially interested.”); Letter from Simon Wolf to Max Kohler (October 15, 1910) (on file with the American Jewish Historical Society) (report on discussion with Nagel on how the Galveston questions would be addressed).

29. Letter from Charles Nagel to Max Kohler (November 11, 1910) (on file with the American Jewish Historical Society).

30. COHEN & SCHIFF, *supra* note 18, at 167.

31. Letter from Charles Nagel to William Howard Taft (December 23, 1910) (on file with the Yale University Library) (enclosing decisions in pending Galveston cases).

never was too successful and closed early during the Wilson Administration.<sup>32</sup>

The Jewish lobbying on the Russian issues was successful and there was no lasting ill-effect on day-to-day lobbying activities. Nagel spoke at a meeting of the Union of American Hebrew Congregations early in 1911, and the organization printed his address.<sup>33</sup> Nagel and the Jewish groups were as one in their opposition to a literacy test, and President Taft vetoed the imposition of this measure in the closing days of his administration.<sup>34</sup>

---

32. COHEN & SCHIFF, *supra* note 18, at 167.

33. Letter from Max Kohler to Charles Nagel (January 21, 1911) (on file with the American Jewish Historical Society).

34. NAGEL, *supra* note 6, at 142-43. *See* S. Doc. 1087, at 3 (1913) (President Taft's message includes Nagel's detailed criticism of the literacy test.).