

## Hungary's Numerus Clausus, the Jewish Minority, and the League of Nations

The First World War left in East-Central Europe a shattered world. Hungary, first by defections of her subject peoples, then by virtue of the Treaty of Trianon (4 June 1920), was reduced considerably in territory as well as population. Between 1918 and 1919, Hungary also had to endure several wars with the so-called Successor States (Czechoslovakia, Roumania, and Yugoslavia), a short-lived Soviet Republic, and finally a Roumanian military occupation. By November 1919, when Admiral NICHOLAS HORTHY assumed the reigns of a conservative government in Hungary, the nation's remaining people were destitute. In search of a scapegoat, the Magyars found a religious minority, the Jews, who comprised nearly 6% of the population of about eight million people<sup>1</sup>. The Magyars tried to justify their prejudice saying that the Jewish intelligentsia had participated in the late Communist regime in disproportionate numbers<sup>2</sup>. It is not surprising, therefore, that shortly after assuming power, the HORTHY government reacted to Jewish influence in Hungary by introducing a law, the so-called numerus clausus, that would limit the number of Jewish university enrollees in proportion to the rest of the population<sup>3</sup>. The ramifications of this statute were to extend far beyond the frontiers of Hungary and assume international implications involving the League of Nations. It is the purpose of this study to examine the nature of the numerus clausus, and to show how the League of Nations appears to have missed a golden opportunity for establishing its authority in Central Europe by failing to compel Hungary to withdraw the law and therewith adhere to the minority protection clauses of the Trianon Peace Treaty<sup>4</sup>.

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<sup>1</sup> According to the census of 1920, Hungary had a population of nearly eight million people, of whom 7,147,000 were Magyars, 551,000 Germans (Swabians), 142,000 Slovaks, 24,000 Roumanians, 54,000 Serbo-Croatians, while the rest was composed of miscellaneous smaller ethnic groups. Jews numbered close to 450,000 people, most of whom claimed to be Magyars. Magyar Királyi Belügyminisztérium, Magyar statisztikai évkönyv 1919—1922. (Hereafter cited as *Évkönyv*).

<sup>2</sup> There were other reasons, too, most of them having to do with Jewish hegemony in Hungary's business life. Over 50% of Hungary's medium sized estates (between 200—2000 catastral yokes) were either owned or leased by Jewish interests. Jews controlled 40% of Hungary's commerce and credit, 48 out of 60 large corporation heads being Jewish. In general, Jews exceeded by far their percentage of the population in all „better“ types of occupations. For an extensive treatment of this topic, see KOVÁCS pp. 13—56, 62 and 76. BARTA pp. 86—87. Also see an article written by SZENDE, the Finance Minister in MICHAEL KÁROLYI's Social Democratic regime, in which the author reveals the alleged influence of Jewish capital in Hungary.

<sup>3</sup> The only concerted effort to render an analysis of the numerus clausus was by JULES STONE. Unfortunately STONE's statistics and his evaluations of the data are not always accurate and betray a certain bias. Far more valuable is the brief report by ÉMILE HORN, which covers the topic accurately, and even surveys pre war educational patterns in Hungary.

<sup>4</sup> For the relevant clauses of the Peace Treaty, see R. SCHMIDT and M. BOEHM pp. 650—651,

In many ways, the position of Hungarian Jewry was unique, both before and after the war. In 1867, Hungary's government had granted Hungarian Jews full citizenship rights, and by 1918, the grateful Jews had become largely magyarized. Consequently, after the war, Hungarian Jews considered themselves not as a Jewish minority in the spirit of the Peace Treaty minority provisions<sup>5</sup>, but as Hungarians belonging to the Jewish faith. After 1918, even Hungarian Jews who had become Czechoslovak, Roumanian, or Yugoslav citizens, demonstrated their loyalty to their mother country by insisting on calling themselves Hungarians, at times contrary to their material interests<sup>6</sup>. Within crumbling postwar Hungary itself, Jewish leaders lost no opportunity to reaffirm their solidarity with, and voice their desire for full participation in, the Hungarian nation. Drs. MÓR and JÓZSEF MEZEY, editors of the Jewish periodical *Magyar-Zsidó Szemle*, addressed an open letter to Hungary's Minister of Justice regarding a projected reorganization of the Hungarian Upper House. They requested the Minister to nominate Jewish senators along with representatives of the Christian denominations, quoting a parliamentary reorganization plan of 1885 which would have given the Jews the right to have one of their religious representatives nominated to the Senate by the king<sup>7</sup>. A few months later, another open letter took up the issue of the plebiscite imminent in Burgenland, a region which had belonged to Hungary before the war but was given to Austria by the Peace Treaty of St. Germain. When Hungary protested, the League of Nations decided to hold a referendum, in which Burgenland residents would have to choose between Hungary and Austria. The editors of *Magyar-Zsidó Szemle* assured the Hungarian authorities that the members of the two Jewish congregations in Sopron (Odenburg), capital of Burgenland, were loyal to Hungary and would vote to rejoin that nation<sup>8</sup>.

These letters were significant because they stressed the Jews' desire for full involvement in Hungarian political affairs, and emphasized the need for establishing a legal position for Hungarian Jewry on the basis of Hungarian constitutional and legislative precedents. In view of these circumstances, it was a great shock to the Jewish community when the *numerus clausus* was first proposed in Parliament. Deputy

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and European War 1914. Peace Treaties, pp. 37–38. The TITTONI Report became the legal basis whereby the League of Nations pledged to uphold all the Peace Treaty provisions. The League thereupon established a Council of Three to examine all complaints addressed to the League regarding violations of the minority protection clauses. League of Nations, Protection of Linguistic, Racial, or Religious Minorities by the League of Nations pp. 7–8, and League of Nations, Official Journal, Annex 115, 10th Session, 27 October 1920 pp. 143–145; *ibid.*, 220 7th Private Meeting of the Council in Brussels, 25 October 1920, p. 33. (Hereafter cited as O. J.)

<sup>5</sup> HUGH SETON-WATSON pp. 291–292.

<sup>6</sup> *Ibid.*, p. 67.

<sup>7</sup> *Magyar-Zsidó Szemle*, 26 July 1921, pp. 1–3. It should be noted that in 1867 Law XVII, Article 1, had given Jews full civil and political equality, whereas Law XLII, Article 1, had declared the Jewish religion to be a creed recognized by law. Law XLIII of 1895 provided freedom of religious practice for Jews. For a detailed description, see Royal Hungarian Ministry of Foreign Affairs, *The Hungarian Peace Negotiations*, Vol. 1. pp. 236–238.

<sup>8</sup> *Magyar-Zsidó Szemle*, October 1921, pp. 59–62.

BALÁZS SZABÓ initiated the lengthy and acrimonious debates by stating: „I feel it is one of the burning issues to-day to determine by law what the extent of Jewish activity ought to be in all walks of life. The entire Christian community demands such action<sup>9</sup>.“ Many members of Parliament expressed their pent up feelings of hatred against Jews — some subtly, others overtly. A speech by Deputy GYULA ZÁKÁNY seemed to epitomize the general outlook in Parliament. ZÁKÁNY said:

I realize that from the point of view of modern jurisprudence and constitutional practice we are not justified to withdraw legal rights from any member or segment of the citizenry. However, I maintain that certain conditions are so pressing as to create an atmosphere rendering such a step desirable for the majority. Furthermore, the higher interest of the State supersedes legality. I must declare that a certain group [Jews] has in recent decades achieved a hegemony over its Christian brethren. This group has not always subscribed fully to the principles of assimilation to the [Hungarian] national spirit. We may blush, but we [Hungarians] have in recent years backslid intellectually to the advantage of this group. ∴ This law is meant to restore the balance in our favour. I must admit — and I freely acknowledge this fact — that our Jewry has contributed so extravagantly to the culture of Hungary that it has become a catastrophe for us Christians<sup>10</sup>.

Deputy Bishop OTTOKÁR PROHÁSZKA argued in a similar vein when he defended the projected law, claiming it was not anti-Semitic in intent, but a move of self-preservation for the Christians and the languishing Christian middle classes of Hungary. Since 1867 the Jews had practically taken over the entire intellectual life of Hungary, and although nobody could deny the gratitude which Hungarians felt toward their Jewish brethren for putting Hungary on her feet economically, now they had to put self-preservation and racial defence before liberalism and gratitude. Miracles could not be expected as a result of this law, PROHÁSZKA felt, since laws could not by themselves create a culture, yet the problem would be dramatized, and interest engendered among the Magyar youth, who had hitherto been very laggard in entering into the nation's economic and cultural life<sup>11</sup>.

Some of the speakers dropped all pretense of even mock concern for the welfare of the Jewish minority and engaged in gutter tactics. Deputy KÁROLY SCHANDL, for example, insinuated that the Jews of Hungary had been and currently were Communists. He cast aspersions on the loyalty of Jews by reading to the Assembly an ingratiating statement by the *Hungarian Zionist Organization* to the Communist regime just before its demise. He admitted that some very few Jews in Hungary were willing to assimilate and hence were loyal, but the majority, in his opinion, were bent on destroying the Hungarian moral fabric<sup>12</sup>. Deputy VIDOR DINICH simply declared: „There is no such thing as a Jewish Hungarian<sup>13</sup>.“ Indeed, especially during the 96th and 97th sessions of Parliament on 2 and 3 September 1920, the Jews

<sup>9</sup> Nemzetgyűlés Nyomtatványai, Nemzetgyűlés naplója, Vol. III, 51st Session, 1920, p. 212. (Hereafter cited as Napló).

<sup>10</sup> Ibid., Vol. 4, 96th Session, 2 September 1920, pp. 166—168.

<sup>11</sup> Ibid., 103rd Session, 16 September 1920, pp. 347—351. Also reported in: Az Est, 17 September 1920.

<sup>12</sup> Napló, Vol. 4, pp. 339—340.

<sup>13</sup> Ibid., p. 342.

were excoriated and vilified by various speakers<sup>14</sup>. Jews were said to have monopolized the entire national life, such as business, banking and education, to have shirked front line duty during the late war, and to have been war profiteers. In a speech notable for its bitterness, Professor NÁNDOR BERNOLÁK declared:

„If the country had not collapsed in the recent war, such a law would not be necessary. The fact that the country did collapse is living proof that the university graduates lacked the ability to maintain our former greatness. I hope that this law will answer our needs for the brief transition period before us, namely, the overcrowding of professional fields<sup>15</sup>.“

At the 96th session on 2 September 1920, the Minister of Education, ISTVÁN HALLER, had delivered a long speech in favour of the proposed law, and had supplied some statistics in support of his arguments. HALLER declared that in the academic year of 1867–1868 the total number of university students had been 3,353, of whom 396, or 11.8%, had been Jews. Currently there were 16,700 university students in Hungary (including about 2,000 theological students of whom 21 were Jewish) comprising an even larger proportion of Jews than before the war. In the 1906–1910 period Jewish attendance had been 26.4% in law, 46.9% in medicine, 33.0% in pharmacy, 38.0% in fine arts. In 1913–1914, Jewish attendance had been 18.6%, 46.7%, 30.2% and 33.2% respectively. The Minister concluded his speech by declaring that liberalism in Hungary was dead<sup>16</sup>.

Anti-Semitic opinion did not, however, monopolize the floor. The following day, the Minister of Education got involved in a heated dispute with Professor GYÖRGY VASADI BALOGH, who challenged the legality of the impending law and also attacked it on moral grounds.

VASADI BALOGH said:

„The trouble is that the intentions to institute this law are tied to the necessities of day to day politics, not to genuine pedagogical needs and principles. I cannot conceive of such a law within the framework of our university needs. In my opinion, schools should not be governed by any political or racial problems, since education is in the service of a higher national ideology. This ideal cannot be disturbed arbitrarily from one day to the next . . . The biggest injury of such a law would be the violation of our Law XXX, Article 26, of 1883, which called for the legal right of a maturant [high school graduate] to enter the university“.

To this, HALLER replied:

„We shall change that law. Besides, only those students possess this right who had already begun their university career [before passage of the new law]. Whoever has not begun his higher education as yet has no such legal rights“.

VASADI BALOGH responded:

„I disagree. The right to higher education is not gained through university registration but by the possession of a matura diploma<sup>17</sup>.“

<sup>14</sup> Ibid., pp. 172–196.

<sup>15</sup> Ibid., pp. 180–181.

<sup>16</sup> Ibid., pp. 150–159.

<sup>17</sup> Ibid., pp. 178–180.

Dissenting arguments such as VASADI BALOGH's found little favour. When the law was finally passed on 21 September 1920, it was by a great margin. Fifty seven representatives were in favour, whereas only seven legislators voted against the law<sup>18</sup>.

After the first shock subsided, Jewish associations in Western Europe sprang to the aid of their beleaguered brethren in Hungary and began a concerted campaign to seek redress by calling the matter to the attention of the League of Nations. In November 1921, the *Joint Foreign Committee of the Jewish Board of Deputies*, the *Anglo-Jewish Association*, and *L'Alliance Israelite Universelle*, submitted a petition to the League of Nations on behalf of their co-religionists in Hungary. This interference was deemed justified in view of various Articles of the Treaty of Trianon, according to which „Hungarian nationals who belong to racial, religious, or linguistic minorities shall enjoy the same treatment and security in law and in fact as do other Hungarian nationals“, and Article 60 of the same Treaty, which placed the protection of these minorities under the aegis of the League of Nations<sup>19</sup>. On 30 September 1922, the League of Nations representatives of Belgium, Spain, and China brought the matter to the attention of the Council of Three, and thus the case became a cause célèbre. In its arguments before the Council, the *Joint Foreign Committee* stated that the numerus clausus violated Articles 56, 57, and 58 of the Treaty of Trianon, since the Hungarian government failed to accord equal treatment to all Hungarian citizens under the statute. The *Alliance Israelite* also charged that the law alluded to Jews as belonging to a „different race or nationality“; this was untrue, however, since Hungarian Jews, in the opinion of *L'Alliance*, „clearly constituted a religious minority“<sup>20</sup>.

The Hungarian government responded to these charges by maintaining that the law had two objectives; first, to reduce the number of the intellectual proletariat, or educated working classes; second, to guarantee the rights of minorities. Since the territory of Hungary had been greatly reduced, it was necessary to limit the number

<sup>18</sup> *Ibid.*, pp. 481–482. According to the Ministry of Education, „numerus clausus is the result of the dismemberment of Hungary, which will be unable to render a livelihood for as many university graduates as before, and the Communist revolution, which proved that the presence of an intellectual proletariat is dangerous to the State“. The law was implemented by the Ministry through an Enabling Act — decree 123033 of 27 September 1920, and a subsequent decree 144652 extended the law to pharmacists. *Évkönyv 1919–1922*, pp. 138–139. The numerus clausus, Law XXV of 1920, 386.123.033 — 1920 V.M. sz. 24 September 1920, had the following major provisions:

*Article I.* Only those may enroll in the universities and Law Schools in 1920–1921 who from the patriotic and moral point of view are reliable, and only in such numbers as facilities for their thorough education permit.

*Article II.* This law does not affect students who had enrolled in previous semesters, except that they, too, must provide evidence of patriotic and moral reliability.

*Article III.* All admissions to universities are to be governed by the student's ability, his patriotic fidelity and good moral conduct, as well as by the proportion of the nation's race and nationality he represents, but to be at least nine-tenth of that number. *Magyar rendeletek tára*, pp. 1455–1459.

<sup>19</sup> Please refer to fn. 4. p. 115.

<sup>20</sup> O. J., Vol. 3 (1923), pp. 1204–1205. (Minutes of Council, 21st Session, 16th Meeting, 30 September 1922).

of students in Hungary, especially since many of them were studying with the ultimate aim of entering State service. In reducing the number of students, certain other considerations were taken into account, in addition to intellectual ability. Firstly, because of events during the period of dictatorship of the working classes, the State wished to obtain guarantees of patriotic loyalty from its future officials. Secondly, the number of young men of the various races and nationalities were to be in proportion to the number of inhabitants of the races or nationalities in question. The last point was in fact a codification of the rights of minorities, declared the Hungarian government. The Jews were in fact receiving favourable treatment regarding their admission to the universities<sup>21</sup>.

In reviewing the evidence, the League Council was of the opinion that it would be necessary to ascertain in what manner the law was being applied in Hungary, and then decide whether the legitimate rights of the minority in question had been violated in practice. The Council requested information on admission procedures and attendance from the Hungarian government so that the Council might follow for a certain time how the law was being applied. The Hungarian representative, Count BÁNFFY, who was also Hungary's foreign minister, agreed to these terms, and within a few months submitted his government's statistics on university admissions<sup>22</sup>. The Hungarian government, however, was slow in its subsequent responses. It took nearly two years to submit meaningful statistics that could be used by the Council<sup>23</sup>.

To complicate matters, on 1 January 1925, the *Joint Jewish Foreign Committee* and the *Anglo-Jewish Association* handed in a second petition asking for submission of the case to the Permanent Court of International Justice to determine the legality of

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<sup>21</sup> It should be noted that certain disturbing internal developments in Hungary lent an air of urgency to KLEBELSBERG's insistence that the numerus clausus be retained. GYULA GÓMBÓS, future Prime Minister of Hungary and leader of the „Awakening Magyars“, a Fascist organization, urged that the university restrictions against the Jews be extended to all professions and occupations if Jews continued to oppose the numerus clausus. TIBOR ECKHARDT, an influential politician and head of the Anti-Semitic Association, threatened at a mass meeting in Miskolc on 9 December 1925 to close down Hungary's universities by force, if the numerus clausus was abolished (New York Times, 19 and 20 December 1925). These threats were still in the future, of course, but KLEBELSBERG was mindful of a *sub rosa* reign of terror being directed against the Jews, ever since the overthrow of the Communist regime. Under these circumstances, it seemed prudent for the government to assuage aroused public opinion by insisting on the numerus clausus on the Statute Book. Unsubstantiated reports of the so-called White Terror may be read in The New Europe, 8 January 1920, pp. 405—406 („Anti-Semitism in Hungary“, written by an anonymous „well-informed Czech correspondent“, which deals with some of the more flagrant anti-Jewish agitations in Hungary on the eve of the numerus clausus. For further reading, see the statement by the only Jewish member of the Hungarian Parliament PAUL SÁNDOR. (See BERNARD G. RICHARDS).

<sup>22</sup> O. J., Vol. 4 (1923), p. 101. For the university attendance statistics submitted by Hungary to the League of Nations, see O. J., C. 154.M.57. 1923 I, February 1923, pp. 162—168.

<sup>23</sup> The Hungarian government submitted its first figures on 24 January 1923, and its final statistics on 27 August 1924. They were formally conveyed to the Council on 8 September 1924. For details, see the DE MELLO-FRANCO REPORT, O. J., Vol. 7 (1926), pp. 145—148.

the numerus clausus in the light of Article 14 of the League Covenant<sup>24</sup>. The Hungarian government, according to these complainants, violated the legitimate rights of Jews in theory and in practice. Furthermore, the law was in direct violation of the Trianon Treaty minority provisions. Moreover, the law hurt Jews in other countries, because they had to support Jewish students from Hungary who were attending foreign universities<sup>25</sup>, and finally, there was great danger that the law might be adopted in other countries in Europe.

Undeterred by these developments, the League Council examined the statistical and other evidence submitted by the Hungarian government and in the summer of 1925 dispatched a letter to Budapest. The main points of the letter were as follows: Firstly, would the Hungarian government modify the law in face of the decision by the Hungarian Court of Appeals on 23 September 1924, to the effect that Jews were not a separate entity within the Hungarian state? Secondly, would it be possible to give more detailed figures on university attendance of all nationals and to provide the number of those refused admission to universities? Thirdly, what criteria were being used to decide what constituted a Jew?

In a letter dated 18 August 1925, the Hungarian government responded in the following terms: In the first place,

„The Hungarian government did not consider that there was anything in the judgment of the Court of Appeals to necessitate the modification of Law XXV of 1920 or of its application. The judgment dealt only with a particular case connected with the application of an article of the penal code<sup>26</sup>.“

In the second place, the Hungarian government would attempt to submit additional statistics procured from the universities. There was a likelihood, the government admitted, that disproportionate numbers of Jews might have been rejected for admission recently, due to the fact that they were seeking admission in greater numbers than were members of other nationalities. This situation might be ascribed to the more favourable material condition which Jews enjoyed in Hungary, the Hungarian government rationalized by way of explanation. As to the third point, the criteria for judging admissibility of candidates to universities were determined on the basis of documents establishing the origin of the person in question<sup>27</sup>.

In November 1925, other startling developments took place which totally altered the situation. On November 16, LUCIEN WOLF, a prominent official of the *Joint Foreign*

<sup>24</sup> According to Article 14, „The Council shall formulate and submit to the Members of the League for adoption plans for the establishment of a Permanent Court of International Justice. The Court shall be competent to hear and determine any dispute of international character which the parties there to submit to it. The Court may also give an advisory opinion upon any disputes or questions referred to it by the Council or by the Assembly. AUFBRICHT p. 411.

<sup>25</sup> According to a contemporary report by the Jewish Telegraphic Agency of Vienna, up to 1925, some 74 Jewish students had obtained medical degrees abroad, the total cost to an international Jewish agency having been \$ 26,000. In addition, returning Jewish doctors encountered difficulties and delays in obtaining recognition of their foreign diplomas from the Hungarian authorities. *New York Times*, 16 August 1925.

<sup>26</sup> O. J., Vol. 7 (1926), pp. 146–147.

<sup>27</sup> *Ibid.*

*Committee* admitted in an interview that although his *Committee* had received many requests for action, these pleas had come only from individual Hungarian Jews and from some unnamed Jewish organizations. Under these circumstances, WOLF had to grudgingly concede that his organization had no official mandate to speak on behalf of Hungarian Jewry<sup>28</sup>. Later that month, the President of the Council of Three, DE MELLO-FRANCO, revealed that certain Hungarian Jewish organizations had remonstrated against foreign intervention in Jewish-Hungarian affairs. On 27 November, for example, the *Consistoire de la Communauté de Culte Israélite de Pest* had dispatched a letter to Count BÉTHLEN, the Prime Minister, protesting against the League action by foreign Jewish organizations. Two days later, the *Bureau de la Confession Autonome Israélite de Hongrie* addressed the League of Nations' Secretariat in a similar vein<sup>29</sup>.

The initiative for these anti-interventionist protests was first conceived at a big meeting, organized by the Jewish community of Budapest, and attended by leading Jews from all over Hungary. The delegates reaffirmed their faith in the Hungarian Constitution and in the fairmindedness of Hungarian legislative and judicial processes. Next, the following resolution was adopted by acclamation:

„In our fight against the numerus clausus we are depending solely upon the Hungarian Constitution. We have never appealed to the articles of the Treaty of Peace demanding equality for religions and we shall never do so in the future. We are Hungarians. We feel ourselves part of the Hungarian nation. Consequently the Treaty of Trianon which is an affliction to our nation, can never be a source of justice for us. We recognize with confidence that we are not alone in our fight for the inviolability of our legal rights that we shall continue to fight, but that the guardians of the patriotic traditions of the great Hungarian statesmen will be on our side . . . We wish to settle the matter of the numerus clausus on our native soil with the Government and the legislation of our Hungarian fatherland. For this reason we have not called, and do not call, for the aid of any foreign factors, and we decline such aid, even though it may have sprung from good intentions<sup>30</sup>.“

What are the explanations for this apparently strange behaviour, which almost certainly assured the rejection of the charges against Hungary by the League? There can be little doubt that Hungarian Jewry would have welcomed a solution to their predicament, but scarcely by outsiders. Had the Hungarian Jews initiated any action at the League on their own behalf, or had they even condoned any such initiative from foreign agents, they would have relegated Hungarian Jewry to the status of a minority group in the sense of the minority provisions of the Peace Treaty; they would have lost their position as Hungarians, at least in the opinion of their Christian neighbours, and this would have embarrassed any further litigations with

<sup>28</sup> Individual Jews did attempt to solicit foreign aid, with disastrous consequences for themselves. DR. EUGENE HALASS, for example, was sentenced to a one-year jail term by the Budapest Criminal Court on charges of having insulted the Hungarian Nation. DR. HALASS had sent out circulars soliciting aid from Jewish communities abroad against the numerus clausus. *New York Times*, 16 August 1925. In general, however, Hungarian Jews and their domestic supporters sought constitutional remedies, as for example through parliamentary action. *New York Times*, 28 November 1925.

<sup>29</sup> O. J., Vol. 7 (1926), pp. 147–148.

<sup>30</sup> *New York Times*, 20 December 1925.

their government. Moreover, it would have placed the fate of Hungarian Jews in the hands of an as yet untried international organization — the League — whereas presently they still enjoyed full legal rights as Hungarian citizens, at least in spirit, if not always in practice. It was undoubtedly an agonizing choice, but Hungary's Jews knew, as minorities have often found to their chagrin, that legal victory is frequently the mother of defeat, whereas acceptable solutions to a problem are often to be found in practical agreements with local authorities. Thus, the Jewish community rejected in principle special treatment, favourable or not.

In December 1925, Count KLEBELSBERG, the Hungarian representative, took good advantage of the opportunities presented to his government by the protests. In a presentation to the Council in Geneva he stated, among other things, that since the Hungarian Jewry had repudiated interference by foreign Jewish associations, there was really no case left against Hungary. Nevertheless, said the Count, adverse anti-Hungarian propaganda had made it necessary to clear up certain points. The law, suggested KLEBELSBERG, was a temporary measure arising from the situation created by the Peace Treaty of Trianon, and it would be modified as soon as Hungary regained economic stability. Hungary's economic position needed some amplification, KLEBELSBERG believed. Immigration from the Successor States had brought some 320 000 refugees to Hungary right after the war — 80% of whom were of the „intelligentsia“. Between the census of 1910 and 1920, the number of the „intelligentsia“ had increased by 50%, lawyers by 25%, chemists by 33%, magistrates, doctors, and other professionals by 50%, state officials by 100%. Economizing by the government led to the dismissal of many public employees, thus cutting down considerably the need for more university graduates. To make matters even worse, the middle class had increased unduly in numbers. Since its fortunes were wiped out in the recent inflation, this bourgeoisie constituted a potential menace. Under such circumstances, KLEBELSBERG continued, it would be unpardonable for the government to permit schooling for careers for which there were no positions available. There was no international law that could compel a State to provide such training. Besides, he claimed, the State was not attempting to diminish the economic professions, only the liberal professions. The law, for example, did not apply to schools of technology and economics, commerce, veterinary medicine, art, or forestry, nor to training colleges for teachers. Yet, as it was known, Jews generally favoured the economic professions, and this was another proof that the law was not directed against Jews per se. In fact, this was a good law. It attempted, among other things, to decentralize education by shifting more students to the provinces, and this included Jewish students as well. In many ways, then, the law was protective, not restrictive, for it guaranteed admission to Jews in all the universities. Pázmány University, for example, the biggest institution of higher learning in Hungary, was a Roman Catholic school which could by right of its charter restrict admission to Catholics alone, but for this statute. Furthermore, said KLEBELSBERG, had Jews been permitted to register freely in the universities for any length of time, there was a danger that Hungary's other minorities would have eventually lodged complaints with the League of Nations for being squeezed out of admission by excessive numbers of Jews. The only alternative in such an event would have been to restrict the admission of the Magyar majority in order to accommodate all the minorities, and such a solution would have been inadmissible. Next, KLEBELSBERG reviewed the law and its position vis-à-vis the Peace Treaty. None of the Peace Treaty Clauses, according

to the Count, assured a minority the use of State-supported higher education. But even if the Treaty Clauses contained such provisions, they would merely call for „equal treatment“. Since Jewish university students exceeded their population census percentages by more than double, the Hungarian government and its law were living up to this non-existent Clause. If, in certain cases, Jews did suffer for a time because of this law, then they would have to do so along with all other Hungarian subjects. After all, the law would be unfair only if it discriminated against a certain minority. In this instance there was equal treatment for all, the restrictions having been levied proportionately on all members of the community, the Magyar majority included. KLEBELSBERG next warned that the Hungarian Christian middle classes were in such an economically precarious situation that „their minds were subject to great strain.“ Abrogation of the law now might lead to a rupture between the Christian and Jewish communities, a crisis the government wished to avoid at all cost. KLEBELSBERG next explained his government's methods of ascertaining who constituted a Jew. This decision, said KLEBELSBERG, was not necessarily based on the present religion of a person, but on his religious status as revealed by extracts from State registries. If a person changed his religion to avoid the law, he would still be considered Jewish. If his conversion was sincere, the law would not apply to him<sup>31</sup>. The Count also provided more statistics, which he felt might help the Council arrive at a decision<sup>32</sup>. If official Hungarian statistics are to be believed — and they are known to be fairly accurate — then the numerus clausus did not bring about a reduction of Jewish students to the allegedly desired 6 % level. There were year by year fluctuations in Jewish attendance at the various universities, but generally speaking, Jewish attendance in Budapest became stabilized around the 7–8 % level, whereas in the provincial universities even some drastic reductions in Jewish attendance failed to depress the Jewish population much below an average of about 12–14 %. At Debrecen University, for example, there was actually a rise in Jewish attendance from a very low of 31 (7 %) in 1920–1921 before the law came into existence, to 88, or 13.2 %, the following year. Szeged University had a high Jewish attendance record after the law was promulgated, namely 24.7 % in 1921–1922, and 19.2 % in 1922–1923. At Pécs University the Jewish population kept fairly steady, with 58 % in 1921–1922 and 53 % in 1922–1923<sup>33</sup>. Far from making room for members of other

<sup>31</sup> Count KLEBELSBERG's speech may be found in O. J., Vol. 7 (1926), pp. 148–153.

<sup>32</sup> Jewish percentages in the universities were as follows:

1920–1921	— 12.5 %
1921–1922	— 13.9 %
1922–1923	— 13.1 %
1923–1924	— 12.3 %
1924–1925	— 11.2 %

Rejection figures of Jewish applicants at the University of Budapest Law Faculty were as follows:

	<i>Christians</i>	<i>Jews</i>
1923–1924	255	127
1924–1925	169	130
1925–1926	85	96
Ibid.		

<sup>33</sup> It is ironic that the diminishing Jewish birth rate probably had more to do with the de-

minorities, the law seemed to have actually reduced them over the years. The absence of Slovak students was especially conspicuous. Yet even the number of German (Swabian) students declined by about 450 % between 1920 and 1927 at Pázmány University. German attendance in 1919–1920 had been 107, in 1926–1927 it was down to only 23. At the same time, none of the other universities had a significant German attendance record, either. At the provincial universities German attendance fluctuated between 3 to 16 students each per annum<sup>34</sup>.

Count KLEBELSBERG had also failed to provide accurate information with respect to Jewish attendance in non-liberal arts' institutions. Count KLEBELSBERG had claimed that the law did not discriminate against Jewish students in economic faculties. In fact, the Hungarian government had submitted certain statistics to the Council, indicating relatively poor Jewish attendance at the Institute of Economic Science in Budapest, where only 4 % of 614 students and 4.8 % of 677 students during two consecutive semesters in the early 1920s were Jews<sup>35</sup>. Clearly, Jews were not exceeding the quota in economic faculties and hence the law was irrelevant.

There were other, and equally puzzling features to the law, and the explanations offered to the Council by the Hungarian government were not clear. For example, fear of an alleged „intellectual proletariat“ is so vague that no responsible government should promulgate an important law on its basis. In the course of parliamentary debates on the law, Deputy Gábor UGRON had pointed out that it was impossible to prove whether or not an applicant to a university was loyal to the government or whether he was moral. It would be equally difficult to differentiate between Hungarians and Jews by law, since the Jews of Hungary professed to be Hungarians by nationality, although they had always had a chance of choosing otherwise<sup>36</sup>. It seems strange too that Count KLEBELSBERG cited a population explosion of the educated as a prime reason for the law, when only a short time later he completely reversed his position. Professor GYULA KORNIS, President of the Hungarian Pedagogical Institute, quoted the Count as declaring that the primary aim of the educational policy of Hungary was to build up the university, in order to raise the number of students to the level needed in national life, and for these to be on as high an academic level as in other European institutions<sup>37</sup>. The author added that the current educational policy of Hungary was based on broad (intensive and extensive) levels. The broader the education and the more cultured the members of society, the more the nation would prosper economically, and the less it had to fear the revolutionary

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cline in Jewish attendance at the universities than exclusion under the law. The Roman Catholic birth rate was 23 per 1,000 population, Calvinist 23.1, Lutheran 19.4, Greek Orthodox 20.2, Greek Catholic 33.7, whereas the Jewish birthrate was only 11 per 1,000, and had been thus since before World War I. ENDRE SÓS pp. 10–12 and 36.

<sup>34</sup> All the statistics cited, as well as others, may be found in: *Évkönyv, 1919–1922*, pp. 191–194; 1923–1925, pp. 251–255; 1927, p. 226; 1928, p. 264; 1929, p. 261; 1930–1931, p. 274.

<sup>35</sup> O. J., — C154.M.57 1923 1, February 1923, *passim*.

<sup>36</sup> *Napló*, 104th Session, 17 September 1920, p. 366.

<sup>37</sup> KORNIS p. 203.

aspirations of the masses<sup>38</sup>. It therefore seems, that Count KLEBELSBERG had been less than plain in his declarations to the League Council.

When the Council finally emerged with its findings on 12 December 1925, it was evident that the protest of Hungarian Jewry against outside interference had made a great impression on that body. DE MELLO-FRANCO, the President and spokesman of the Council of Three, announced that the question was whether the law was compatible with certain provisions of Article 58 of the Peace Treaty. The Hungarian representative had pledged that his government considered the law as „an exceptional and temporary measure necessitated by an abnormal social situation“. The government had also decided to amend the law, circumstances permitting. Therefore the Council recommended regarding the law that the League should not take action at the moment, but await amendment of the law in the near future. Count KLEBELSBERG accepted these conditions on behalf of his government, a position also adopted by the Council<sup>39</sup>.

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The question remains: why did the Hungarian government take the trouble to promulgate a law that would permit the reduction of Jewish university students to only 6% and then fail to respond vigorously once the law was in effect? Two possible explanations come to mind. One is that the Hungarian government had second thoughts about carrying out the law to its limit, largely due to economic considerations. Even the anti-Jewish speakers in Parliament had had to admit the importance of the economic contributions of the Jews, and it is quite possible that the Jewish presence in Hungary's economic life was deemed to be indispensable. Another possible explanation for the non-enforcement of the law is the fact that the Hungarian government had never meant to enforce such a law to the limit in the first place. The government had achieved its apparent primary aim by having the League of Nations uphold the legality of permitting Hungary's government, not the League, to exercise jurisdiction over Hungary's minorities.

As far as the Council was concerned, it completely missed the significance of the *numerus clausus*. For some reason it could not see that the Hungarian government was attempting to challenge the League's right to intervene in Hungarian internal affairs. The primary concern of the Council should not have been „how“ the law was being applied in Hungary, and whether „in practice“ minority rights were being violated or not. The question was basically whether Jews were first-rate or special (second-rate) citizens whose rights could be curtailed. Also, whether Hungary could create a successful test case by promulgating a law in direct defiance of the Trianon Peace Treaty and even its own constitution and laws, and do so with impunity. For it was contradictory in the extreme for the Hungarian government to count Jews

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<sup>38</sup> *Ibid.*, pp. 38–39. It should also be noted that in a speech on 21 October 1925, delivered to his alma mater, the Friedrich-Wilhelm University of Berlin, Count KLEBELSBERG expressed similar sentiments, especially stressing the need for Hungary to maintain stable conditions in higher education, independent of momentary impulses. *Deutsche Rundschau*, Vol. 202, January 1926, p. 23.

<sup>39</sup> *O. J.*, Vol. 6 (1925), 11th Meeting, 12 December 1925, Document 1636, p. 171.

as Hungarians in the census (in conformity with the wishes of most Hungarian Jews, to be sure), and then consider them a non-Hungarian minority at other times, as expediency moved the regime. It should have been the Council's duty to make it clear to the Hungarian government, and to other interested governments, that the League intended to enforce the Treaty provisions in Hungary. Instead, the League played into the hands of the Hungarian government by asking for statistical figures and for the government's methods of applying the law. Instead of challenging the constitutionality of the statute, the League tacitly condoned in principle such restrictive minority laws, whether applied to the full or not. This conflicted with the duties and obligations of the League, which had inherited the responsibility of upholding the Peace Treaty provisions from the Great Powers.

Indeed, this was a memorable event, because for the first time in history an international body had taken collective constitutional responsibility for enforcing international treaties, a task which had hitherto been the exclusive right of individual sovereign states. It was therefore essential for the League to impose its authority firmly in this, its first test case, in order to establish for itself a reputation of prestige and ability in dealing with infractions. By exhibiting weakness and ineptness where firmness and competence were needed, the League surrendered by default its authority to impose its jurisdiction in cases of future infractions and violations of international agreements. Thus, in this first important postwar minority test case, the League proved to be unable to uphold the concept of international control over minority affairs, and thus helped to pave the way for more serious violations by other countries in the not too distant future.

### *Abbreviations*

Évkönyv = Magyar statisztikai évkönyv  
 Napló = Nemzetgyűlés naplója  
 O. J. = Official Journal

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