

The following article appeared in the Brockhaus-Efron Jewish Encyclopedia from 1908-1913. The writers are reporting on the status of the Pale of Settlement which still existed at that time, so the narration is often in the present tense. The text is offered here in translation with minimal editing and a link to a royal decree and on-line map of the developing Pale has been inserted. Note also, that bios on the original authors are linked to their names.

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*Zhitel'stvo i peredvizheniye yevreyev po russkomu zakonodatel'stvu*

### **The Residence and Movement of Jews Under Russian Law**

**Pale of Settlement.** From all the nationalities that make up the Russian state, only Jews are limited in their natural right to have the freedom to choose their place of residence. Unlike other peoples, Jews were not granted the right to settle and live throughout the entire territory of the state, but only in the specifically denoted provinces that constitute the so-called "Pale of permanent Jewish settlement." In its most important manifestations, Jewish life in Russia proceeded continuously in conditions created by the Pale of Settlement. The latter has largely determined the form and content of life for the Jews in Russia. As in the cultural, spiritual and moral, and especially economic aspects, the life of the Jews was in the grip of the Pale of Settlement. Suppressing the Jewish masses economically, the Pale removed them from free communication and cooperation with the neighboring population, exaggerating around Jewish people a tense national-religious atmosphere. Only certain groups of the Jewish population possess the right of Residency beyond this Pale - either permanent or a temporary one, this right is not ubiquitous but has various exceptions. At the same time, even within the borders of the Pale, not all of the areas are open to the life and activities of the Jewish inhabitants: the entire territory outside urban and small-town settlements is inaccessible to most Jews. Even some cities within the Pale are open to settlement for only a few privileged categories. With that, before 1903, the residence of Jews in the (western) frontier zone within the limits of the Pale was also constrained. In 1780 the Jewish population of the Belarusian provinces (Polotsk, now called Vitebsk, and Mogilev), which had passed to Russia from Poland, was equalized in rights with the Russian commercial-industrial class; at that time Russia's urban population was legally attached to the place of registry. Neither merchants nor burghers enjoyed the freedom of resettlement; only short-term absences were allowed. All the Belarusian population, and in particular, the Jewish people, were required to obey this order. Although, given the special local conditions and financial considerations, an exception was then made for Belorussia and the local merchants regained their former freedom of resettlement within Belorussia's borders. The regional Jewish merchants received an even greater right to enroll in Smolensk and Moscow merchants' guilds. However, in 1790 Moscow merchants made a complaint against Jewish merchants who lived in Moscow, accusing them of the trade disruptions. "Her Majesty's Council" determined that Jews have no right to register in Russia's merchant cities and ports and that they were not perceived to be of any use there. Nevertheless, they still enjoyed the rights of citizens and petty bourgeoisie in Belorussia and this was extended to the Yekaterinoslav vicegerency and Taurida

province (now Yekaterinoslav, Taurida, and Kherson provinces ). This provision of the Council was sanctioned by [Catherine II by the decree of December 23, 1791](#), which marked the beginning of the Pale of Settlement, although not intentionally. Considering the conditions of the social-state system as a whole, and Jewish occupancy in particular, the government could not have foreseen to create a special repressive position for the Jews, introducing laws exclusively for the restriction of their right of residence. Under the circumstances of that time, this decree did not involve anything that would put the Jews in particular, in a specifically unfavorable position compared to Christians. The age-old order that had attached the common townsfolk to a particular place of residence continued to control public life, despite the City Provisions of 1785, which granted the freedom of movement to the merchant class. Petty-bourgeois, for example, could not move from one province to another and consequently, Jews who registered mainly in petty-bourgeoisie could not move from one province to another, except by the decree of 1791 which confirmed that Jews could enjoy the freedom of resettlement in the Belarussian province(s). Thus, the decree of 1791 did not impose any restrictions on the rights of Jews in relation to the residency, did not create a special "Pale zone," nor did it shield Jews from Christians: new regions were opened to the Jews to which others were not able to resettle, according to the general order. Thus, the circumstances that caused this decree did not suggest that there were any reasons to set a restricted residency for the Jews, but rather what would bring benefits to the state. Therefore, an exception to the general constraint on the freedom of resettlement was made in this case, so Jews were given access to a new land. The same could be noted about the attitude towards the Jews regarding religious matters. Thus, fear of "harmful influence on Christians" did not play a decisive role at this moment. The concern was mainly to do what was useful. According to the Council, the trade activities of the Jews in the inner cities were of no benefit. Therefore the prior privilege granted to the Jews was withdrawn. The actual relocation of Jews to the new areas happened three years later, when a decree of 1794 confirmed that Jews could enjoy the right to pursue merchant and petty-bourgeois trades in the provinces listed in the decree of 1791, as well as in the newly annexed area of Poland to Russia: Minsk, Izyaslav and Bratslav provinces (present-day Minsk, Volyn, Podolsk provinces). At the same time, Chernigov, Kiev, and Novgorod-Severski (Poltava) provinces were opened for them. The center of gravity of the 1791 decree was not the "Jewish matter" in itself, but the fact that most of the Jews were trade (merchant) people. The question was not considered from a matter of nationality or religion, but only from the point of profitability. Nevertheless, it is precisely with the decree of 1791 that the Pale of Settlement begins. This decree gave grounds for future interpretation that, regardless of the position of the respective classes of Christian citizens, Jews enjoyed the right of sedentary residence (i.e., the right of the registry, associated with the right of citizenship and engagement in merchantry and petty bourgeoisie trades in the locality of registration) only in certain provinces. The Pale of Settlement - although this expression did not yet exist - was recognized as established. With the third partition of Poland, the Lithuanian provinces (Vilna and Grodno) were included in the Pale. In 1799, the right of citizenship was extended to the Courland Province. Then the provision of 1804 added Astrakhan and Caucasus provinces to the regions open to the Jews. In 1818, the Pale expanded with the addition of the Bessarabian region. In the future, gradually, the area of the Pale was reduced. Kurland was excluded in 1829 (the right of residence was preserved there only for those Jews who were listed in certain census/revision lists) and Astrakhan and Caucasus provinces in 1825. In 1887 - Taganrog Governorate

and Rostov district (Don Cossack Host Region) were also removed. In parallel with the Pale, there is another area which has not been called by this name "Pale" in official acts - it is the ten provinces of the Kingdom of Poland. For a long time, this territory and the actual Pale were isolated from each other: Jews from the Pale could not move to the Kingdom of Poland and, contrariwise, for the Jews of the Kingdom of Poland, the Pale of Settlement was inaccessible for relocation. Only in 1868 did the abolition of this restriction follow, and the migration from the Pale to the Kingdom of Poland and back became open. Currently, the territory of Jewish settlements includes the provinces of Bessarabia, Vilna, Vitebsk, Volhynia, Grodno, Yekaterinoslav, Kiev, Kovno, Minsk, Mogilev, Podolia, Poltava, Taurida, Kherson, and Chernigov, in addition to the Kingdom of Poland (Warsaw, Kalisz, Kielce, Łomża, Lublin, Piotrków, Płock, Radom, Suwałki, Siedlce Governorates).

Restrictions within the Pale of Settlement are expressed, on the one hand, in the prohibition of settling in small towns and villages, and on the other, in the constraints existing in some cities. The pursuit of removing the Jews from the countryside in order to concentrate them in the cities and towns arose soon after the annexation of Belorussia to Russia (first partition). It held the Jewish population in dismay almost until the Patriotic War (Napoleonic) in spite of the fact that the government had to abandon such policies towards Jews as contradictory to the state-economic structure that had developed over the centuries in the former Polish provinces. Later Jews were expelled from counties (villages and hamlets) only in certain areas (see Eviction). The "Provisional Rules" on May 3, 1882 gave a new form to the intention of removing Jews from the counties: the prohibition for Jews to re-establish themselves in small towns and villages replaced the previous form of eviction. Since 1903, through a series of decrees, 291 settlements were withdrawn from subjection to the "Provisional Rules" action. In 1904 this restriction was lifted for groups possessing the right of residence outside the Pale (see Temporary Rules).

**Restrictions in cities.** During the period of Polish rule, the question of the residence of Jews in the cities had been resolved in each case individually. On the one hand, the kings were granting Jews the right to live in a city for a particular disbursement, on the other hand, the cities were entering into various agreements with the kings, in order to eliminate competition with Jews. Thus the kings were also giving cities the "privilege" of expelling the Jews from the cities (*De non tolerandis judaeis*) and preventing them from settling. This tendency also revealed itself in some former Polish cities after their transition to Russia's rule. The first such petition came from Kovno (1797). Local Christians, as the governor-general put it, "followed only their long-standing frivolous, and so to speak, senseless envy of Jews." In this way, they sought to get rid of the Jewish competitors in trade, confiscate their goods in their own favor, and use the sums of money which were issued by Jews as security deposits for houses. However, Emperor Paul I commanded, "so that the Jews who settled in Kovno would be left in the tranquil possession of their property, they execute their crafts unhindered and conduct trade affairs without disturbance." Earlier, Paul I forbade the expulsion of Jews from Kamenetz-Podolsk. These decrees, it seemed, dealt a blow to the privileges that formerly protected the cities from the settlement of the Jews. However, in 1801 the Kiev magistrate, referring to the privilege of 1619, filed a petition to evict all Jews from the city. It was however, rejected by the Emperor. In 1803, Kovno made

a similar petition anew. A few years later, the Kiev magistrate again began to seek the restoration of the old privilege for its benefit, but without success. In 1827 it did finally succeed in petitioning for the issuance of a decree on the eviction of Jews from the city. In 1833 the local authorities opposed the eviction of Jews: "it is impossible not to prefer the favor of the inhabitants over personal benefits expected by the Christian merchants from removing Jews." Only in the reign of Alexander II did the Jews gain access to Kiev: some for permanent, others for temporary stay (see Kiev). In the 1830's, relying on the ancient privilege Kamenetz-Podolsk also spoke out against the Jews, but its harassment was not satisfied. The self-serving desires of the Christian commercial-industrial class played a considerable role in all these cases. Another, namely "military" motive caused the decree of 1829 on the expulsion of Jews from Nikolaev and Sevastopol; and only much later was an exception made for specific categories of Jews (see Nikolaev, Sevastopol). For quite special reasons, the law of 1893 subjected some categories of Jews to eviction from Yalta with the prohibition of settling again. At that time the royal family was living in Yalta in the summer months, and yet there was discovered a "recent influx and the progressive increase in the number of Jews in the city was connected to a noticeable desire among Jews to acquire real estate there. This threatened to turn this place of medical resort into a purely Jewish city." The exclusion of several cities from the Pale of Settlement was not the last step in the process of narrowing the "pale." In some cases, even within a city itself, a "pale" was being established (see Ghetto in Russia).

**Outside the Pale of Settlement.** Some categories of Jews enjoy the right of so-called "general/universal" residence - permanent or temporary. Although in reality, the rights of [fully] universal residence never existed before, and does not exist nowadays. There were and still are parts of the state in which no Jew could move or regain the right of settlement. Thus, there always existed territorial restrictions even for privileged groups. Jews may enjoy the right of residence outside the Pale of Settlement upon merchantile, or educational qualifications, as well as a craft, or military service. Erstwhile, there was no right at all of the permanent universal residence for Jews – they were allowed only temporary dwelling within internal (non-Pale) provinces and capital cities. This was mainly arranged "for repayment of old debts, dealing with litigation/lawsuit businesses and for their public/social needs." Moreover, the authorities were charged to ensure that the Jews were not able to settle in these areas. The Provision of 1804 somewhat expanded this right, giving temporary residence (with families) outside the Pale to "manufacturers, artisans, artists, and merchants." In 1819, Jews were allowed to conduct wine distillation in Great Russia's provinces until the time when Russians themselves learned this process (see Vinokur/Distiller). In the 1830's rights of residence were granted to Jewish artisans in the provinces of the Caucasus region. In 1844 Jewish artisans received the right to settle in the fortifications of the Black Sea, though only on the eastern shore. However, even then certain restrictions were already imposed outside the "pale." For example, in 1825 there was a ruling that "from the districts, in which there was a sect of "Sabbatarians" or Judaizers, and from all neighboring counties, all Jews without exception should be expelled, no matter where they were and henceforth forbid them staying there under any pretext." At the same time, measures were worked out so that Jews could not take up permanent residence in capitals and other cities outside the Pale "line": they registered people who went beyond the "line" for commercial affairs, established surveillance over

their stay so it would not last more than 10 months, etc. Only from the time of Emperor Alexander II did the question of living outside the Pale receive a new direction in order to merge the Jews with the Christian population, and also serve the general state interests. The following categories of Jews received the right of residency outside the Pale: 1) In 1859, the merchants of the first guild (see Merchants; the law of 1904 granted general residence also to commerce and manufactory advisers.) 2) In 1861, people with a higher education (see Higher education), as well as (since 1879) pharmaceutical assistants, dentists, paramedical assistants, midwives and all studying pharmaceutical and the midwifery professions (see. Medical professions). 3) Persons who have completed military service on the basis of a recruitment statute. This right was granted in 1860 to lower ranks who served in the guard, and in 1867 to all retired and lower ranks personnel on indefinite leave, together with their wives and children. This right is retained even now for their descendants, assigned to communities outside the Pale of Settlement. This right was extended by the law of 1904 also to the lower ranks who participated in the military actions on the Far East of Russia, who were granted a Distinction Award or served in active military forces in general. 4) Persons engaged in the guild and non-guild manufacturing and crafts, according to the law of 1865, which allowed Jewish mechanics, distillers, brewers and craftsmen and specialists in general, to live everywhere, having family members with them. These groups mentioned above are allowed permanent “universal” residence (with respect to artisans and some other groups, the explanatory language of the Senate allows residence only under the condition of practicing their profession). As for the right of temporary, urgent residence outside the Pale, it is granted to merchants. The rest of the Jews can leave the Pale for only up to six weeks and with a delay of up to eight weeks for pursuing legal rights in judicial and governmental institutions, for accepting an inheritance, for trading affairs and for bidding on contracts and supplies that have taken place within the Pale. Those Jews who graduated from secondary schools can live outside the Pale for continuing education in higher institutions and academies. Dwelling in all places of the empire is granted to young people under 18 years old for learning a craft precisely for the duration of their contract with the master who trains them. The privileged groups are not able to exercise their right everywhere in the same amount. In Finland, none of the Jews except local has the right to permanent residence. In the Don Cossack Host Region (since 1880) and in the Kuban and Terek regions (since 1892) only Jews with higher education can reside (see Don Host Oblast; Kuban. and Terek Oblast). In Siberia, the settling of the Jews was almost completely prohibited. Jews face exceptional constraints in Moscow and Moscow province. On the other hand, there are areas where in addition to the privileged categories other groups of Jews can live, if satisfying not the special requirements for educational qualifications, crafts, etc., but special local stipulations. In places like Sloka, Governorate of Livonia, permanent residence is permitted to all Jews and their offspring, only if they were recorded there by the revision of 1835. In Riga, the right of residence was reserved only for those who were assigned to the city prior to 1841. Jews may reside in the Kuban and Terek regions, assigned to the local communities before 1892, but only in a particular place of their registry. “Mountain or Caucasus Jews”, are entitled to live in the Caucasus as they lived there among other peoples, when the region was conquered by Russians. They enjoy the rights of the Mountaineers. Some Jewish groups enjoy the privilege of living in the Stavropol Province and also, Transcaucasia. In Turkestan, the right of residence is enjoyed by the

Jews whose ancestors were settled there from time immemorial as well as later, but before this region became occupied by Russian troops.

Jews who illegally reside in these areas are sent out by police measures to the places of their registration and brought to justice there. (On projects to abolish restrictions on residence - see Alexander II; State Duma. See also Residence Permit, Widows, Children, Wives, Foreign Jews.)

In the Kingdom of Poland there were special restrictions on the right of residence and movement. The Royal decree on November 19, 1808, which forbade Jews from acquiring estates, did not say that Jews could not live outside cities. On the contrary, by the decision of the governor of February 4, 1823, they were allowed to engage in agriculture not only in the colonies, but also in state, spiritual, and private estates. However, based on the decree of October 30, 1812, which forbade Jews to have rights to the distilling and sale of alcoholic drinks, the Management Council of 1843 and 1853 made rulings against the residence of the Jews in the villages. In 1851, Jews were also prohibited from settling in villages within the 21 mile border strip along Austria and Prussia. In 1856, it was ordered to remove Jews who were not engaged in agricultural labor from the estates belonging to the mining department. As for constraints in the cities, an initiative in this regard was shown by the government of the Duchy of Warsaw: it began to encourage cities to establish such an order that existed in Warsaw where Jews could not live on all the streets. In addition, the Austrian government gave cities the right to use the old privileges of *De non tolerandis judaeis* if they previously existed. As a result, at the time of the formation of the Kingdom of Poland (1815), there were 83 cities that had the right not to accept Jews. In the 1820's, with the approval of the governor, about 30 more such cities were added. In 1856, out of 453 cities in the region, in only 246 cities did the Jews enjoy the freedom of settling and residence; in 31 cities there were separate neighborhoods outside of which only privileged Jews could live who satisfied special material or cultural conditions. In 90 cities, Jews either could not live at all or could be allowed only in separate neighborhoods. In 111 cities situated in the frontier zone, Jews from the interior regions could not be accommodated (some cities simultaneously belonged to two categories). The law of 1862 lifted all these restrictions. \*

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Living on preferential terms is a particular type of temporary residence for Jews outside the legalized areas of Jewish settlement. It is based not on the general state law, but includes special orders issued by the government, partly sanctioned by the Supreme Authority. Driven by need and destitution, the Jews were penetrating and settling in the forbidden areas of the state, despite the lack of a legal basis for it, and the local police and the administration were condescending to this for personal reasons. The sixties of the 19th century were the years of enhanced migration of Jews beyond the limits of the Pale when certain groups of the Jewish population began to gain access to the inner provinces. In anticipation of the abolition of the residency laws, local authorities were in no hurry to evict them. So, later, in view of the proposed revision of the laws on the residence of the Jews, by the Circular from April 3 1880, the Minister of Internal Affairs even ordered the governors not to evict the Jews who were not entitled to live outside the Pale of Settlement, but still settled there before April 3, 1880.

However, soon after the pogroms of 1881, followed a mass expulsion of Jews from the inner provinces to the towns and settlements inside the Pale that had just been devastated. This measure has become so disastrous that the Minister of Internal Affairs, Count Tolstoy, was forced to remember the Circular of 1880. At the same time however, it was confirmed that the governors are obliged to take all measures to ensure that newly arrived Jews who were not legally entitled to do so, were also not allowed to settle (Circular of June 21, 1882). With a circular dated January 14, 1893 the Minister of the Interior Affairs abolished the above-mentioned Circulars of 1880 and 1882 and proposed to the governors to evict all Jews who settled illegally. This order caused a lot of petitions not only from Jews but also from Christians, who for a long time were entering into legal, property and personal relations with Jews and therefore some reliefs were established (The Highest Order on July 21, 1893), especially for Jews in the provinces of Livonia and Courland. In exceptional cases, the governors were allowed to petition to leave the Jews in place "until a special order of the central government, which would oblige to follow upon the legislative review of the general question of Jews" (the expiration date set for June 1, 1894 could be continued for one year by Governors petitions).

Thus, the Circular of 1880 ceased to operate. Although, in relation to the Jews in Livonia and Courland, the Circular of 1880 remained in force. As for the Jews who settled there after April 3, 1880 then in relation to their privileges, the following were allowed: in respectful cases, the governor may apply for permitting the Jews to stay, when they are recognized by their activities as particularly useful for the local trade or industry. Although the preferential laws confirmed that the further settlement of Jews should not be allowed, nevertheless due to the economic demands, the Jews were forced to continue settling in unauthorized places, which therefore resulted in their incessant eviction. During the war with Japan, the eviction was suspended by a Circular of March 6, 1904 because among the reserve ranks called up by officials for active service, there could be members of evicted Jewish families. According to this Circular, the privilege should have been applied only to those Jews who, after settling outside the Pale of Settlement on legal grounds, subsequently lost their right of residence, or to those who have been living there for a long time, with a family and household, and in case these Jews did not cause displeasure among the surrounding population. At the end of the war with Japan, some governors resumed their eviction, but the Minister of Internal Affairs prolonged the force of the Circular of 1904 regarding the Jews illegally settled outside the Pale of Settlement until August 1, 1906 under the conditions indicated in that Circular. The local administration however, continued mass evictions. Then the Minister of Internal Affairs, with the approval of the Council of Ministers, issued a new Circular of May 22, 1907 explaining in detail the motives that prompted the adoption of this measure: it is impossible to break the very complex economic relations that have developed between Jews and persons of other confessions, without significantly shaking the property interests of both parties. Also deserving of attention are the statements of evicted Jews about the threatening devastation for them. The extreme difficulty of finding employment and means for living within the precinct of the permanent settlement, due to overcrowding and poverty of the population in cities and towns of the Pale was monumental. Remoteness by the time of occurrence of the illegal settlement cannot create any rights for Jews; however, it is necessary to consider the consequences of this law, which is a vital, real phenomenon. Likewise, the government considered the Jews before, since 1880. Concerned with

eliminating everything that could disrupt the ordinary course of life of the inner Empire or cause in many cases discontent of entire groups of the population, and until the general question of the right of residence of Jews is legally settled, it is necessary to suspend the eviction of those Jews, who live in areas not permitted for them, if they settled there before August 1, 1906 with a family and household. The same should apply to Jews who have lost their right of residence after legal settlements outside the Pale of Settlement, if moreover, the local administration is confident that this Jew who is being allowed to reside is not harmful to public order and does not cause displeasure on the part of the population among which he lives. The Circular of May 22, 1907 was issued at the time when the implementation of the basic principles of the Manifesto of October 17, 1905 was assumed, including the equation in all rights of the Jews with the surrounding population. With the onset of the reaction, a request was made to the State Duma of the third convocation, about the irregularity of the Circular of the Minister of Internal Affairs P.A. Stolypin of May 22, 1907. In addition, representatives of several ultra-nationalist organizations filed a complaint to the Senate against the Minister for publishing the above-mentioned Circular as contrary to the law. When discussing this issue in the Senate there was a disagreement, and the case went to the State Council. However, even before the question of the regularity of the Circular was resolved, the ministry refused to continue using it, and mass evictions of Jews were resumed everywhere (1910).

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\*– Mysh, "Rukovodstvo k russkim zakonom"; Fride, "Zakony o prave zhitel'stva yevreyev"; Materialy komissii po ustroystvu byta yevreyev (po Tsarstvu Pol'skomu); Grigoriy Vol'tke, "Pravo trgovli i promyshlennosti v Rossii v istoricheskom razvitii"; yego zhe, "Zakony o pogranichnykh zhitelyakh i pogranichnykh snosheniyakh"; yego zhe, "Pravo na trud i cherta osedlosti" ("Voprosy obshchestvennoy zhizni 1904 g.", №№ 2 i 3). YU. Gessen, "O zhizni yevreyev v Rossii"; yego zhe, "Getto v Rossii", "Yevreyskiy mir", 1910, №№ 11 i 13; Rukopisnyye materialy.

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