

SHOULD there be control over immigration? The purpose of this series of six articles is to assist in arriving at a decision.

The articles will not be concerned with the detailed provisions of the law, nor with the various pressures for making control more or less strict, nor with the history of control, nor with the practice in other countries, nor with racial problems—except as any of these may arise in the course of discussion.

Attention will be concentrated on the arguments themselves, both those for freedom and those for control, and by referring to first principles it will be found possible to reach a definite conclusion.

THERE must be few political issues on which public opinion has changed more suddenly and more drastically than on immigration. In 1962 the Commonwealth Immigrants Act was passed only after the fiercest opposition from those who valued the tradition of free entry for citizens of other countries of the Commonwealth. By August, 1965, when the white paper *Immigration from the Commonwealth* was published, the political parties were quarrelling over how many immigrants to admit, but there was almost universal agreement that some control was necessary. The ensuing parliamentary criticism of the government's policy was criticism not of control itself, but of the way that control was to be applied.

So much of the recent debate has been about immigrants from the Commonwealth that it is worthwhile emphasizing that control over immigration of aliens has been accepted since 1905. The influx of Jews from eastern Europe then occupied a similar position in the public consciousness that the influx of Commonwealth citizens does today, and the initial reaction to control was roughly the same—strong protest, followed within a few years by widespread acceptance.

The case for treating Commonwealth immigrants more favourably than alien immigrants has presumably rested not on any reasons for or against immigration as such but on the nature of the Commonwealth itself. This must be so, for if free immigration is right it should apply to all immigrants, whatever their country of origin; and if control of immigration is right, the government is as much entitled to check the flow of Commonwealth immigrants as it is to restrict the entry of aliens. The freedom given to Commonwealth immigrants was therefore a concession, a kind of Commonwealth preference, which has now been all but withdrawn.

It may be merely noted that, just as universal free trade would render Commonwealth preference in trade impossible, so free immigration would obviate any preference for Commonwealth citizens over aliens. Conversely, just as protection makes preference in trade possible, so control of immigration makes preference for certain classes of immigrant possible. It is beyond the scope of this discussion to consider whether, if control is justified, preference should be given, and if so to whom. We



IMMIGRATION OR

This, the first of a series of analytical articles about

do not need to distinguish between different kinds of immigrant, but will concentrate on the nature of immigration itself which can be defined as entrance into a country for the purpose of settling there.

Article 13 (1) of the Universal Declaration of Human Rights adopted by the United Nations in 1948 states that "Everyone has the right to freedom of movement and residence within the borders of each state." The rights of a man to leave any country (including his own), to return to his own country, and to enjoy political asylum in any country are admitted, but it is assumed that a government is entitled in the interest of those whom it governs, to limit the influx of population into its territory in any way it thinks fit. The Declaration most certainly reflects public opinion in this country and in many others in holding that there should be freedom of movement within national boundaries but that this freedom should not necessarily apply to crossing them.

Freedom of movement has three aspects: freedom to work where you will, freedom to live where you will, and freedom to travel where you will.

The freedom to work where you will is substantially intact in Britain in that there is no actual direction of labour. Nevertheless, the man whose labour is organising production may have to apply for an industrial development certificate to set up a factory, and this may be refused. The freedom to choose where one will work is thus being nibbled at, and it seems likely that this nibbling will continue. Moreover, in a planned economy, if there is to be any certainty of success, there must be available the power to direct labour and capital. If "indicative planning" fails—and it is inconceivable that it will not fail somewhere, sometime—then unless the whole plan is to be allowed to founder, compulsion must follow. Justifiably or not, therefore, the freedom to work is already qualified, and could be more heavily qualified in future.

It is, however, the freedom to live where you will that is of the greatest significance for this inquiry. Although employment is a major factor in the immigration debate, a man who lived in Calais and took the ferry to Dover each day to work would not cause the immigration authorities too much of a headache, for he would be a visitor rather than an immigrant. However, a man who emigrated from France to England and lived in Dover, even though he travelled to and from work in Calais each day, would be an immigrant. It is the occupation of the land of a country for habitation that is the heart

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*ns on immigration, is a challenge to think in a new way
controversial question.*

of immigration. The question to be determined is, who has the right to settle on unoccupied sites in any area—is it the natives of that area alone; is it all men everywhere, or is it all men but with some sort of prior right for the natives? Like the freedom to work where you will, the freedom to live where you will is qualified, because planning regulations forbid residence in large parts of the countryside and in designated sectors of towns.

The freedom to travel where you will is fairly well upheld on public highways and common land, although here again it is qualified because it is subject to practical impediments such as one-way streets and “keep-off-the-grass” signs.

There is one important limitation common to all three aspects of freedom of movement. The right to free movement, for whatever purpose, is and must always be confined to land over which neither a private individual nor the state or any other public authority has a legitimate right of exclusive possession. These rights of possession would still exist in a society where land rent was fully taxed. Any land holder who paid his land-value tax would become entitled to full possession and would have as much reason to regard trespass and damage as a breach of the law as any land owner today. A private company or a local authority or a nationalised industry would be no different in this respect from an individual.

Thus, even within a country, there are restrictions on freedom in all three of its aspects. Since at least some of these restrictions seem to be justified, it must be questioned whether the right to freedom of movement and residence is a right at all in the same sense as, say, the right to life. Freedom of movement is one facet of that general liberty that belongs to all individuals, but a lesser or greater part of which is delegated to the state. We can be sure that freedom of movement is valuable only by imagining it to be arbitrarily denied, by visualising ourselves as suddenly confined to our houses or thrown into prison. Where arbitrary detention and imprisonment is practised, we inherently feel it to be wrong.

If there should be freedom of movement and residence within the borders of each state, why is it not equally desirable that it should extend beyond the frontiers of states? The argument is by analogy. An individual, by fulfilling the current social criteria, becomes entitled to possession of a plot of land, and is free to admit only whom he likes to it. The same principle, it is argued, must apply to a group of people. The natives of Britain are entitled to admit whom they like to Britain. The natives of China are entitled to admit whom

they like to China. The natives of Monaco are entitled to admit whom they like to Monaco. This is so widely accepted that most immigrants themselves would agree that the people of a country have a right to determine who shall enter it.

The argument can, however, be attacked by means of a further analogy. If any group of people inhabiting a territory have the collective right to apply immigration control, then that right must be possessed by a county as well as by a country, by Essex as well as by Britain. It is proper for the inhabitants of Essex, through their elected county council, to refuse admission to foreigners from Surrey. The amenities of Essex have been paid for by the people of Essex, and it is hardly fair that Essex roads should be worn out by Surrey feet. If there are jobs vacant in Essex, Essex people should be given preference over outsiders, and although we in Essex are quite without accent prejudice, there is no denying that people from the north belong to a different culture from us and their voices do make them more conspicuous than other immigrants. There is a shortage of housing and a strain on essential services in Essex, and we are having enough trouble providing for our own increasing population without diverting more of our resources to immigrants. We understand the plight of the London slum-dwellers, but they, after all, are London's affair, and we cannot afford to allow an influx of poor and unskilled workers into our county, though doctors can come in because we are short of those. We believe firmly in the right to freedom of movement and residence within the borders of each county and have made this belief known by subscribing to the National Declaration of Human Rights, signed by all the counties in the country.

There is no difference whatever between immigration control by nation states and immigration control by counties or other local government units within states. Size is no yardstick, for states are of many sizes, some of them smaller than local government units in other states. A distinct language and culture does not afford a reason, for different states may share the same language and culture; nor does geography, for the boundaries between states may be quite artificial; nor does race, for the same races inhabit different states, and different races inhabit the same states. The feeling that a state has the power to control immigration probably arises from the nature of its sovereignty: it often has ultimate authority over the local government units within it, whereas it is not itself subject to any superior body. A written constitution may provide for a fixed balance of powers between the central government and the local government units, but even if the existence of such a constitution is ignored, there is no valid argument. The question: Why should a state have the power to exercise immigration control? is not adequately answered by replying: Because it is a state.

If there were a world state, and the national governments became local governments, then according to prevailing opinion as expressed in the Universal Declaration of Human Rights there should be no immigration control,

or rather movement control. Yet for any particular country the creation of a world state alone would not alter any of the problems that had been used as a justification for immigration control. There would be no more and no fewer jobs available in Britain; there would still be a housing shortage; there would still be the clash of cultures and customs, the danger of racial tensions. Are we really able to believe that control is justified when there is no international government but unjustified when there is, even though the case for control is exactly the same?

If, then, it be conceded that the rights of a nation state to limit immigration are the same as those of local governments, it is established that the statement in the Universal Declaration of Human Rights is illogical. But in which way? On the one hand it can be argued that since counties have no right to control immigration,

“The Land was Put Here By The Great Spirit”

IN HIS BOOK, *Blackfoot Trails*, E. A. Corbett says that one of the greatest chiefs in the history of the Blackfoot Confederacy was Crowfoot, known personally to hundreds of the old-timers of Southern Alberta from the days when the ranchers began to settle in the country till the time of his death in April, 1890. The following is an extract from chapter XI:

“When the Commissioners first approached Crowfoot they told him that all the tribes to the south and east had signed treaties and were living on reservations and getting on well. They advised Crowfoot and his followers to give up their roaming existence and settle down in the same way.

“This first meeting took place at Milk River in Southern Alberta and the story is told that on that occasion the white men spread a lot of one-dollar bills on the ground and said: ‘This is what the white man trades with, this is his buffalo robe. Just as you trade with skins, we trade with these pieces of paper.’

“Then the old chief picked up one of the dollar bills, which had on it a picture of a man with a bald head, and looking around at his men, Crowfoot said: ‘Stiki Kinkinasi’ — ‘Bald Head.’

“When the white chief had laid all his money on the ground and shown how much he would give if the Indians would sign a treaty, the red man took a handful of clay and made a ball of it, and put it on the fire and cooked it; it did not crack.

“Then he said to the white man: ‘Now put your money on the fire and see if it will last as long as the clay.’

Then the white chief said: ‘No. My money will burn because it is made of paper.’ Then, with an amused gleam in his piercing grey eyes, the old chief said: ‘Oho. Your money is not as good as our land, is it? The wind will

neither have nation states, though in practice they do; and on the other hand that since nation states have the right to control immigration, so have counties, though in practice they do not. The principle of freedom of movement does not help, for, as we have seen earlier, freedom of movement is justifiably qualified in each of its three aspects, and it cannot therefore be said that further qualifications are necessarily bad.

In approaching the fundamental question of whether or not immigration should be controlled, we have gone as far as orthodox thinking can take us, and have reached stalemate. In the next article a completely fresh line of reasoning will be used to put the case for freedom; and in the three articles after that there will be a detailed examination of the various arguments for control. The final article will summarise the conclusion reached.

blow it away; fire will burn it; water will rot it. Nothing can destroy our land. You don't make very good trade.’

“Then, with a smile, the dignified chief of the Blackfoot picked up a handful of sand from the bank of the Milk River; this he handed to the white man and said: ‘You count the grains of sand in that while I count the money you offer for my land.’

“The white chief poured the sand into the palm of his hand and said: ‘I would not live long enough to count this, but you can count that money in a few minutes.’

“‘Very well,’ said the wise Crowfoot, ‘our land is more valuable than your money. It will last for ever. It will not perish as long as the sun shines and the water flows, and through all the years it will give life to men and beasts. We cannot sell the lives of men and animals, and therefore we cannot sell the land. It was put here by the Great Spirit and we cannot sell it because it does not really belong to us. You can count your money and burn it with the nod of a buffalo's head, but only the Great Spirit can count the grains of sand and the blades of grass on these plains. As a present to you we will give you anything we have that you can take with you, but the land we cannot give!’

THE story goes that the King granted “as much land in the New Forest as the Bishop of Winchester, on his hands and knees, could crawl round in a day.” He must have thought, having regard to the normal conformation of bishops, that he was not going to lose much land. But this bishop was an athletic man and a keen sportsman. He chose the best bit of snipe-shooting in the forest, took advantage of a rather foolish slip on the part of His Majesty, who had said “in a day” instead of (as he undoubtedly meant) “in daylight,” and crawled round it in twenty-four hours.

—From *Portrait of The New Forest*, by Brian Vesey-FitzGerald. Robert Hale, 25s.