

# CANADIAN JEWISH ARCHIVES

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FOUNDED BY SAUL HAYES, O.C., Q.C., LL.D., F.R.S.A.  
FIRST EDITOR LOUIS ROSENBERG, F.R. Econ.S., F.S.S.

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Forgetfulness leads to Holocaust;  
Remembering is the root of redemption.  
*(Baal Shem Tov)*

## BENJAMIN HART AND 1829

Compiled by  
DAVID ROME

NATIONAL ARCHIVES  
CANADIAN JEWISH CONGRESS

MONTREAL CANADA  
1982

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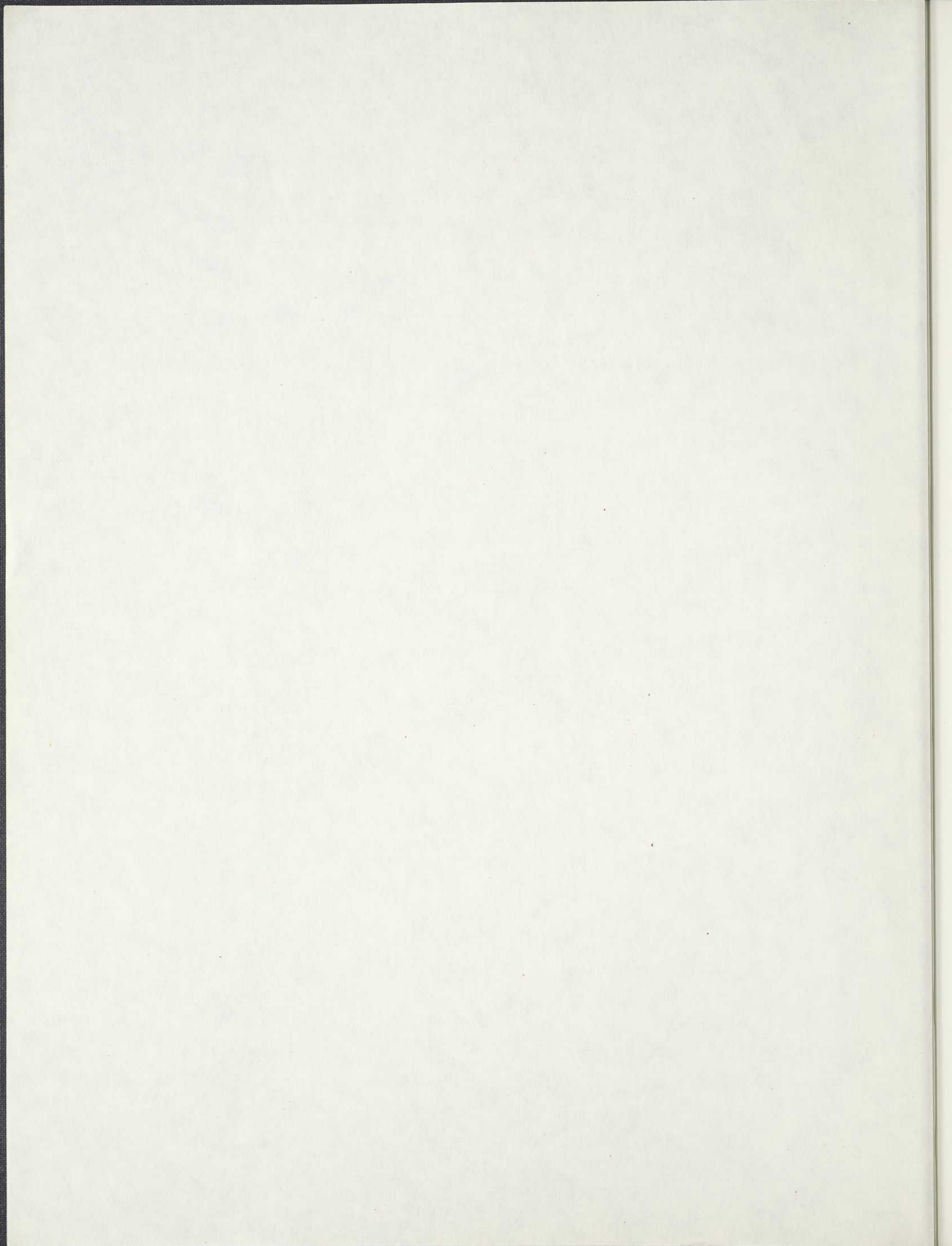
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NATIONAL ARCHIVES

CANADIAN JEWISH CONGRESS

MONTREAL, CANADA

1883

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## LEGISLATING A COMMUNITY INTO BEING

From about 1820 practical Judaism had also assumed the form of active concern with the institutions of the community.

The sheer effort, not only the donations, involved in organizing a congregation, building a tabernacle, and raising the moneys required for the institutional functioning of the group indicates the nature of the social reality of relationships which define a community and even the fact of its existence.

It is not unfair in modern Jewish history to deduce facts from figures, even from dollar figures. The donations which enabled a handful of Jews to build a community structure tell us of more than of their generosity. It is measurable of the strength of their feelings, as the 20th century figures particularly will reflect the loyalties and the concern of much more numerous and much more deeply involved Jewish generations of later times and of our own time.

There must have been a store of Jewish lore among them, for orthodox services were held, even if not very regularly. In the absence of a minister this must have required laymen of no little Hebraic knowledge and ritual familiarity -- something not to be taken for granted in the Montreal of 1830. Such services were held in the home of Benjamin Hart before the synagogue was erected in 1837.

Even before Benjamin was born the minyan in Montreal felt strongly about their organized Jewish life. There was a feeling about their first meetings, their securing from London the profoundly symbolic and precious gift of two Sifre Torah, their erecting a synagogue on a plot belonging to one of their officers, just as there is pathos in the scattering of the little band and the ruin that befell both sanctuary and cemetery.

This pathos was not lost on Benjamin Hart. In due course he called upon this reality, upon the ruins of the synagogue, the desecration of the scrolls, the wasting of the cemetery -- for restoration by revival.

Nor was he alone.

In 1865 David Moss recalled that "thirty years ago there was no place of worship for him or his coreligionists in Montreal. Prayers were read once or twice a year. Mr. Hart and others had endeavoured for a year or two to raise money, and were successful." (London Jewish Chronicle, Sept. 15, 1865)

Gérard Malchelosse' version of the condition of the synagogue after leaving the old premises,

"For some time the congregation met in a room adjoining the home of Benjamin Hart, at the corner of Ste.-Hélène and des Recollets. Hart was then president of Shearith Israel and in this capacity he appealed on July 24, 1826 to the generosity of the members of the congregation for funds for a new synagogue; he was the chief promoter, with Moses Judah Hayes." (P.184)

Rev. De Sola, our historian nearest in time to these developments, records,

"On the 24th July, 1826, a very earnest and able appeal for organization and revival was issued to the Israelites of Lower Canada by Benjamin Hart, Esq., of the City of Montreal, to whom, during a portion of the period intervening the abandonment of the old and the building of their present Synagogue, his coreligionists were indebted for a temporary place of worship in his own residence, S.W. corner of St. Helen and Recollet Sts." (J.J. Lyons and A. De Sola. A Jewish Calendar for Fifty Years. Montreal, 1854)

Gerald Hart continues with legitimate family pride his recital of Benjamin Hart.

"We have alluded to the religious character of Mr. Benjamin Hart and we can point to his charities and veneration of his holy religion. To him principally are the Israelites of Montreal indebted for the beautiful Synagogue they possess. His heart was in the Enterprize. He headed the subscription list with a munificent donation and Sephorim, etc., and was honored by his Coreligionists by being elected President for a long series of years. His declining age admonished him that the climate of Canada was too severe. He left Montreal and closed his valuable life in this city (in New York) in his 76th year."

When Hart turned his attention to the synagogue it was with articulation, even eloquence that he mustered when aroused. He proceeded to arouse the tiny Jewish colony. There is a certain grandeur to his decision to write a manifesto -- addressed to his handful of neighbours -- calling upon them to organize, to contribute, to worship, to perpetuate, to be Jews and to bring up Jewish children. He then had it printed in a few copies and set about to collect funds to build a new synagogue. His appeal reached even to London.

Benjamin Hart displayed a Jewish activism and communal leadership, a force of Jewish thought that would have been considered dignified in the most firmly established Jewish community today. His Jewish statements and missives are landmarks of expression scarcely surpassed in the seven score years since he spoke out. The fact that to circulate the few copies of his appeals that he needed in Montreal he had them printed in an impressive broadside also reflects the importance he attached to these ideas. There are broad Jewish perspectives to the man.

The Declaration of Dependence

"Gentlemen. You are all aware of the neglected state of the old Synagogue, the Sepulchre, Manuscripts of the Pentateuch, Deeds and Registers, belonging to the Israelites of this Province.

"A correct understanding of Divine Worship is not only essential to the happiness of every human Being and a duty to the Almighty disposer of events, but also tends to enlarge the mind and improve understanding. With this view, I beg leave to submit to your consideration the present state of the property of the Congregation of this City. The Old Synagogue in possession of the Executors of the late David David, Esqr. is now a common store, or receptacle for all pollution, and in the hands of strangers, to the great disgrace of our Holy Religion. The Sepulchre is abandoned and neglected, and the remains of those committed to the silent tomb disinterred by opening new graves, the fences are in extreme bad order, and insufficient, all of which are contrary to the principles of Judaism. One of the Manuscripts received from the late Mr. David, then acting President of this Congregation, remains in good order in my possession, ready at any time to be delivered up, when a proper place can be found to receive it. The other two are held and detained by the Executors of the late Mr. David, neglected and suffered to decay and become useless, thereby receiving no part of that care and attention which all Israelites are bound to pay to these sacred writings. The Deeds, Registers and other valuable papers, the property of this Congregation, are in like manner held as above. To remedy these grievances and prevent them in future, I humbly beg leave to propose:

"1st -- That all the Israelites of this Province shall be solicited to become members of this Congregation under the name of the 'Kahal Kadosh Shearith Israel' of Montreal, and all males over the age of Twenty One, have the right to vote personally or by Power of Attorney, which power shall be delivered to the Secretary and remain on record.

"2nd -- That a Meeting shall take place on the first Sunday of September of each and every year in this city, for the purpose of Electing by a plurality of votes a President, a Treasurer, and a Secretary, who shall govern the said Congregation, make Rules, Regulations and By-Laws, demand possession of the Old Synagogue Manuscripts, Deeds, Registers and other papers, the property of this Congregation, keep in repair the fences around the Sepulchre, and mark out the said ground in rows, to prevent sacrilege.

"3rd -- That the President and Secretary so chosen, must be residents of the city of Montreal.

"4th -- That the Treasurer may appoint a Deputy or Deputies to receive subscriptions, and solicit donations for the support of this Congregation.

"5th -- That hereafter at any period a General Meeting shall have the right of adding Trustees not exceeding Four, to be named from the body of Members.

"6th -- That all Rules, Regulations and Bye-Laws so made, must be approved by a General Meeting, to be called at any period by the President, with full fifteen days notice to each and every Member.

"7th -- That all monies received shall be applied to the purpose of keeping in good order the fences around the Sepulchre, relieving poor and unfortunate Israelites, and hereafter erecting a new Synagogue, and a Dwelling House for a Reader.

"8th -- That a regular account shall be kept by the Treasurer, of all monies received and paid, and yearly submitted at the General Meeting, and afterwards entered into the Register by the Secretary.

"9th -- That the Treasurer shall be held to pay out no monies, except on receiving a written order signed by the President and Secretary, and all monies placed out at Interest by the said Treasurer shall be on his own responsibility, except he has the consent of the said President and Secretary in writing.

"10th -- That it shall be the duty of the Treasurer in the month of August of each and every year, to solicit subscriptions and donations from all males over and under the age of Twenty-One, and females to support and in aid of the Funds of this Congregation.

"11th -- That all males over the age of Twenty-One, shall in all the month of August of each and every year, pay over into the hands of the Treasurer, an annual subscription of not less than the sum of Five Dollars, for the purposes named in the 7th article.

"12th -- That all Israelites residing in this Province who do not pay the said subscription, or declare in writing to the President or Treasurer, that their means will not allow them so to do, shall not be considered members of this Congregation.

"13th -- That a Register shall be kept by the Secretary, containing the Rules, Regulations and Bye-Laws, approved and agreed to by the General Meetings subscribed to by the names of all the members in person, or by Power of Attorney.

"14th -- That all Israelites who neglect or refuse to sign the said Register, will not be considered Members of this Congregation.

"15th -- That all Israelites who have in their possession property belonging to the late Synagogue or this Congregation, shall deliver over the same to the Secretary.

"16 -- That all Israelites who shall refuse, or not comply with the above 12th, 14th and 15th articles, or oppose the establishment of a Congregation in this city by any ways or means, shall not be considered as members of this Congregation entitled to a Grave in the Burial Ground, the right of Burial, or receive any religious attention to which all members are entitled.

"17 -- That a Copy of all the Rules, Regulations and Bye-Laws, shall be hereafter printed, and a Copy delivered to each member.

"18 -- That the first annual meeting for the year ensuing, for the purpose mentioned in the 2nd article, shall take place at my office, in this city, on Thursday 20 of August next, at Eleven o'clock in the forenoon; when I sincerely trust all Israelites in this Province well wishers to this undertaking, will attend in person, or by Power of Attorney, and pay over their first annual subscription, at the same time submit such alterations and improvements to the rules now most humbly submitted to your consideration.

"By your Obedient Servant,

Benjamin Hart,

"Montreal, 20 Tamus, 5586, )

24 July, 1826. )" (Séminaire des Trois-Rivières, Hart Papers. A.H.3)

This document, in a sense the founding charter of Canadian Jewry, is also the first major piece of Jewish printing in the history of the community -- a worthy precursor of a remarkable "literature". There are but few examples of printing emanating from organized Jewry this far back in our annals. The archives do preserve several printed billing and receipt forms from the Montreal Congregation of Israelites and from the Trustees of the Congregation "To seat for....., and to offerings" used in 1838 and 1839. (One is "To offerings and amount of Seat Dues.")

"A Bill can be Brought..."

Hart was a man of direct and concrete actions with all too keen a sense of importance of formal and constitutional assurance. As we shall see, he is the father of the legal basis of the Jewish community and of the rights of its individual members. Within a few months he had gotten the cooperation of some of his Montreal co-religionists to participate in fencing the cemetery and guaranteed his own participation in writing (to himself).

Concrete evidence of the birth of the project which, in effect established the rights of the Jewish citizens of the colony, and set up the corporate, organized and legal existence of Canadian Jewry, is to be found on a casual scrap of paper which remains from this time, from the hands of the true patriarch of Canadian Jewry, Benjamin Hart.

Making notes for himself on this matter, he scribbled down and initialed shakily, "I will contribute to build the Walls, under the tenor of the Act a Bill can be brought before Parliament."

This is the first intimation of legislation in regard to the Jewish community in Canada.

At the time he also noted that Mrs. Charlotte David says she "means to claim 6 feet of the Ground for her Self, and will pay an equal Share with her Brothers to have a good New Wall all around the Ground" (of the cemetery).

He adds, "I agree to all and work may advance. My Share of any expense -- for New Wall etc. etc. etc." -- Aug. 19, 1827.

Hart was acutely aware of the formal and legal requirements of the community.

For an appreciation of the further steps in the development of the community, we need to refer to another, less admirable but not weaker son of Aaron Hart. Moses was the eldest of the children. He was in fact the heir of the Trois-Rivières seat of the family and the one we know most about. His antics not surprisingly are the theme of the family historian, Raymond Douville ("Les Années de jeunesse et la vie familiale de Moses Hart", in Cahiers des dix, no. 29, 1958, Pp. 195-216)

As we have seen, Moses Hart's relations with everybody were not very good, more particularly after the day his father died and more especially with his own family.

The community annals of 1829 are therefore not surprising.

On Nov. 17, 1829, Benjamin Hart had occasion to write the following scandalized letter to his elder scapegrace brother Moses,

"I was much surprised to hear from Wellington (Arthur Wellington, Samuel, second son of Benjamin, born 1813 - D.R.) that on visiting our family Burial Ground in Three Rivers he found you had placed there (removed from some other part) the remains of one of your illegitimate children. --

"You must be aware a Step of this Kind on your part defiles that Ground for ever, and No Jew can hereafter be placed there, or any Codosh Said within its walls -- that no bastard can be placed in a Jew Burial Ground, much less a stranger and an un-circumcised. --

"A presumption in you to defile that which does not belong to you -- or to destroy that Ground from being hereafter a Family or Jew Burial Ground. --

"That you should have no respect for the remains of your Parents, or that a Son should be the Man to defile the Ground that contains their Sacred remains seems most strange, and could not be believed by any stranger.

"I here protest against your conduct and demand of you to remove immediately that Body to some of your own Private Ground.

"In doing this I am doing the duty of a Son and a member of the tribe of Israel." (Séminaire des Trois-Rivières. A-H-5)

Two of his own children lay in the desecrated grounds.

A few days later on Nov. 26, 1829, he followed this with a second letter.

"I have no wish to enter into a Paper War with you on Religion. -- Your views and mine are far apart on that Subject. This I say. If your Child as you call him, was Washed and Dressed -- after death by Jews agreeable to our custom, and when in the coffin circumcision with the Blessings and name given him -- in a proper manner -- by a Jew -- His remains might lie in a corner of the Ground, or in the Passage commonly called outside the Pale -- and if this was not done -- His remains defile that Ground.

"If this was all done -- why did you not place him there at first? This must be one you buried at the Red House -- before the death of our Dear Mother.

"I hope to be able to have the Burial Ground here placed on a proper footing -- when I shall remove my three infants with these ( -- ) here.

"I now take my farewell of the Three Rivers Burial Ground. You may place who you please and do as you please. I never again name the place -- a day must come when the God of Israel will judge -- between us." (Séminaire des Trois-Rivières. A-H-5)

The matter was not closed on this note, for apparently a deed regulating the problem was at least drafted by Benjamin Hart.

Alexander joined his elder brother Benjamin in seeking to regularize the management of the family burial ground. In this connection he wrote,

"Dear Benjamin,

"From . . . . on board the Hercules where am ground near Sorel. I have been unwell -- I approve of the Deed and it may be hereafter ratified by all other Heirs -- You might have made a clause at the end or after the words 'henceforward and forever' -- (And the said Burial Ground shall be under the immediate care, control and management of the three Oldest Jews resident in the Town of Three Rivers for the time being). I shall try if possible to go to town tomorrow where I will see you." (Séminaire des Trois-Rivières, A-H-5)

The final agreement included Alexander Hart's amendment about the control in the hands of the eldest Jews of Trois-Rivières.

Benjamin Hart might have known of an event in the history of his community half a century earlier which was a somewhat similar to that which he faced in Three Rivers.

The concerned person was indeed a member of his family, the father of his aunt, an outstanding leader in the community and in Lower Canada commercial society -- Ezekiel Solomon. (His daughter, Esther, was married to the uncle of Benjamin Hart, to Moses the brother of Aaron Hart, also of Three Rivers.)

In the Hebrew autumn month of Kislev 1778 he resigned as Parnass or Gabbay of the congregation even while the honor of Hatan Torah was confirmed upon him. But several months later, in the winter month of Kislev, the entire community met to consider his case: his son had died uncircumcized yet he desired him to be buried according to the rule and custom of the Jews. Several circumstances favorable to Ezekiel Solomons appeared to us, which reason we allow his being buried, but at the same time we unanimously agree and declare that no man or boy whomsoever shall after sixty days from this date be buried in the burial place of this Congregation unless circumcized."

The circumstances? The minutes are silent. The record only that within the month he was named to the junto of three who drew up the remarkable code of orders and regulations of the community.

But we do know that Ezekiel Solomon was married to Louise Dubois in Montreal on July 23, 1769 in the Christ Church by the Protestant minister D. Chabrand Délisle. (I.I. Katz, "Ezekiel Solomon," in Michigan History, Sept. 1948, P.3)

For Want of a Register

We have noted the complications that followed the death of Aaron Hart which arose from the absence of a register of Jewish deaths in the country. (Canadian Jewish Archives, new series, no.15, Pp. 98-99)

Even long after this inconvenience was corrected, problems arose from the failure of the system.

The irregular status of the Jewish community might explain in part the mystery of Esther -- Elora or Eliza Hart, daughter of Ezekiel and of Frances (Lazarus) Hart.

A marriage license was issued in Montreal by Solicitor-General C.R. Ogden on July 21, 1831, on the petition of attorney Alex Buchanan, for her to marry Judge Vallières de St. Réal of Trois-Rivières, widower, after the death of his wife, Louise Pézard in 1828. There is no record of the marriage in either the Catholic or Protestant registers.

But Eliza Hart was alive in 1836 when the judge married Jane Kiernan, and the event was recorded in the parish register; the groom is described as widower after the passing of Louise Pézard.

Eliza Hart is described as unmarried in 1843 in her father's will and in that of her brother, Samuel Bécancour in 1859. (Canadian Jewish Archives, no. 18, Pp. 411-13)

Raymond Douville asks about this marriage. Were they living in sin? What happened to the status of the marriage? (Raymond Douville. "La Maison de Gannes," in Cahiers des dix, no. 21, 1956, Pp. 133-34)

Eliza might have agreed to marry the judge and consented to the civil, religiously neutral process of the marriage license. But how could she, a Jewish woman, go through the Catholic, or Protestant, procedure of the Christian registry? It might have cost her the legitimate or legal bond to her husband, or it might have freed her from him -- no slight benefit, when we consider the character of the man.

The irregularity or informality of the recording of births and civil status of non-Catholics kept the colonial legislature busy for many years adjusting such conditions. (e.g., Journal of Legislative Council, Jan. 24, 1826) This was probably one of the reasons for the legislation at the end of the 1820's which authorized prothonotaries to number and authenticate the register and even to receive the advice of relations and friends in certain cases.

Even in mid-century it appears that in the absence of a minister, members of the Jewish community, like Mr. David, kept the records of births, but when the Rev. Mr. Piza left his office it was found that he had not registered all Lower Canada births, and his successor, Mr. Abraham de Sola, had to report formally, for instance, that the younger children of Adolphus Mordecai Hart had not been entered on the record.

Similar inconveniences in mid-century Argentina led to the naming of a confessing Roman Catholic as the first rabbi.

As told by Michl Sinai in Spigel of Nov. 1945, citing Jacob S. Liochovitzky, "The First Minyan Jews in Buenos Aires", in the collection edited in his memory in 1938 by Lazaro Liacho, reprinted in the 25th anniversary issue of Die Presse, Henry Joseph was a native of Great Britain who converted to Roman Catholicism in order to secure the benefit of clergy when he married a Christian girl. Some time after, about 1860, a child was born to one of the few Jewish couples who had come to the Argentine capital. The parish refused to record the Jewish baby on its rolls, and the government suggested that a Jewish minister be named to keep the register of Jews' births, deaths and marriages. Joseph was selected, in spite of his own formal conversion, because his own limited familiarity with Jewish lore was far superior to that of the others, most of them French immigrants to Buenos Aires. He was soon recognized as representative, and later as rabbi, of the Argentine by the chief rabbinate in London and by the consistoire in Paris, through the first decades of the congregation which involved several disintegrations and reorganizations."

We should note that in 1817 a statement by the attorney general of Upper Canada provided for Jewish civil marriages in the colony, exempting them from the form he established for other residents.

As matters stood in 1828, the Church of Scotland had broken through in 1827.

Fernand Ouellet notes that at this time the policies of Lower Canada's Papineau Party were developing along moderate lines.

"As much to gain votes, through liberals, as to weaken the Anglican establishment which Papineau had described as 'the ally of the stayed persecutions of the Canadiens,' the new chiefs developed a policy which was followed in favour of the Church of Scotland, the Methodists and the Jews." (Le Bas Canada, 1791-1840. Ottawa, Editions de l'Université d'Ottawa, 1976. P. 321)

The effort for fuller rights, for religious liberty as they called it, is part of the epic of Quebec, told better by no one than Siméon Pagnuelo in his Etudes historiques et légales sur la liberté religieuse en Canada. (Montreal. M. Beauchemin et Valois, 1872, 19, 10, 409p.)

A century after its publication, the work of Mr. Pagnuelo is still of very great interest to Jewish readers for he situates the emancipation of the Jews in Quebec in a context not too often seen.

To read Pagnuelo in his own language we must recognize his terms. Pagnuelo was not an American Jewish Democrat, but a Catholic, French Canadian historian. The purpose and nature of religious liberty was for him not the freedom of the individual to follow his personal religion without the intrusion of state or other sanction; rather it was the freedom of the Catholic Church to enjoy its natural rights, its truth, in a geography and in a society where its communicants constituted the demographic majority.

This becomes dramatically clear when we note his reaction to the Canadian Declaratory Act of 1851 which said,

"Whereas the equality in the eyes of the law, of all religious denominations is a recognized principle of colonial legislation, and whereas under the present state and condition of this province, where it is particularly applicable, it is desirable that this principle receive the direct sanctions of the Legislative Assembly, that it recognize and declare this fundamental principle of our civil policy; for these reasons...it is by the presents declared and stated...that the free exercise and enjoyment of the profession and practise of religious belief, without discrimination or preference."

This law was the culmination of the effort for religious equality. It enshrines the utmost of freedom for Canadian Jews. But here is how Pagnuelo read it:

"We see here the Church triumphant, coming out of battle free and independent; we see the dissidents winning emancipation, the Anglicans breaking the intimate union which in fact tied them to the state, and finally we see the Legislature proclaim as a fundamental principle of our political constitution the freedom of Christian denominations and their equality before the law."

There was a lapsus, "Christian denomination." Bourassa himself, years later, caught it, "It is true he said Christian denominations, but as I have pointed out, the Jews were placed absolutely on the same footing as all dissidents." But more of this later.

Pagnuelo's Catholic volume concerns itself largely with the process by which the Church defended and expanded its rights in this country, largely against the favored Church of England, which the authorities sought to set up as the Church of the state.

In this process, as he sees it, the French Canadian Catholic society was naturally on the side of other groups which also had to seek rights and status, and the cause of the dissident Protestants and of the Jews paralleled that of the Catholic Church. By and large, Pagnuelo states, the Catholic group and the voice of the French Canadian majority as expressed politically through responsible government, supported the efforts of the Jews and of the dissidents.

Clearly, the Jewish cause had Catholic, French Canadian support. Pagnuelo adverted to the case of Ezekiel Hart, "possibly the only case of its type in our history of Canadiens persecuting a religious sect and the government acting as its indignant defender. But in 1827 the parties returned to their natural roles and Catholics fought for the religious freedom of Jews and of dissidents and ended by securing it in spite of the combined effort of the crown and the established church. To speak precisely, it was in 1830 that the dissidents achieved emancipation by an act which recognized their right to hold property...It is true that all dissidents indiscriminately did not attain the right to celebrate marriages or to maintain registers of baptism, marriage and deaths, but this was because they sought to know the teachings of new sects and to establish their respectability; for there is no case in more than thirty years of the legislature refusing registers to any sect that asks for it.

"But the Church of England held back for long because it was supported by the high dignitaries of the metropolis and of the colony. Nevertheless, it was clear that it was no longer in its element ever since we secured responsible government, that is government by majority for it was only a tiny minority in United Canada. (Pp. 258-59; Canadian Jewish Archives, new series, no. 17, P. 321)

This innocent passage must have aroused undesired discussion or second thoughts, for the author added a remarkable explication to the errata page which needs to be read carefully.

"Let it be clearly understood that I do not favor either persecution or protection by Catholics of sects which profess error. I have simply stated a historic fact the importance of which can escape no one studying public law in the colony.

"Besides, it is clear that the conduct of the Canadiens in these two circumstances is clearly explicable, from the historic point of view that they always took positions on these questions opposite to those of the government. Securing religious liberty in 1827 for dissidents and for Jews was seen by the Canadiens as a victory over the oligarchic government which they easily identified with the Anglican Church which did not desire religious freedom for Catholics any more than for dissidents or Jews." (P.397)

As we shall see, Pagnuelo proved very deeply understanding of the Jewish constitutional condition in Quebec, and his strong rulings on these questions opened the way for the traditional organization of synagogal life in Quebec in due course.

As Pagnuelo records it, "It was the Legislative Assembly, where the French and Catholic element was predominant, that passed the first bills in favour of the dissidents and where we find traces of such action as far back as 1825. But for four years, that is, until 1829, they had to withdraw them in the face of the ill will of the Legislative Council and the opposition of the Church of England. One of these bills in favour of Protestants known as Methodist Wesleyans was weighted down by such amendments as a £ 200 bond for the minister, a minimum of thirty adherents, the appearance of seven members before the justices of the peace, and the possession of a chapel or meeting place; marriages required six months notice." (Pp. 164-65)

When this bill was brought back to the Assembly, its sponsors gave up in disgust, but the Methodists kept on trying even after a very inadequate measure passed by both chambers was refused by the Crown.

Their victory came in 1829, with the Jews.

Universal religious equality in this sense for Christians was enacted in Lower Canada in 1830. (Pp. 162-69)

As we have seen, the law was not passed without objections. There were many implications for many groups and forces in Quebec life involved in the measure; it affected the position and rights of the Church of England; it was involved in the struggle between the Anglican and Catholic societies and churches; the status of the other Christian churches was involved. The great Canadian judge and historian Pagnuelo attached crucial importance to this seemingly innocuous and self-evident legislation.

During the delay in the legislative process there was some public complaint. But when it was passed, there was nothing but praise for the measure in the colonial press.

But years after Pagnuelo, when the Catholic Church of Quebec fell on immoral, anti-Semitic times, a churchman, writing in the Revue dominicaine, looked sourly at the Catholic support of the Jews in 1832.

M.C. Forest said that the Act of 1832 did not resolve any problem, since no problem existed; there were so few Jews in the country at the time. Rather a problem was posed, with all its consequences for generations to come:

The Canadiens thought it wise to make allies of the Jews and of the dissidents, according to Pagnuelo. It was an adroit tactic in relation to the dissidents; less so in regard to the Jews. We can ask if we do see there a new trace of the liberal ideas that infiltrated into some of our leaders of that time. By putting the Jews on a footing of equality with us, we have fatally drawn them to this young country of infinite possibilities. Inassimilable as a group, they were not slow to become a nation within a nation and the Jewish question which arose everywhere else also arose here in turn, Forest wrote.

## FOR RELIGIOUS FREEDOMS

As Pagnuelo described the basic condition of Lower Canada, after the conquest,

"It was no longer that of the old motherland, nor quite that of the new motherland. If the Catholic religion was no longer the religion of the state, yet it did not fall under the blows of the persecution which was organized against it in Great Britain. Protected by English colonial law, by the act of capitulation and by treaty, it became a free and independent faith, and it slowly freed itself from the shackles which fanaticism and ill will sought to revive from the beginning...England must have been quite embarrassed by its acquisition when she found it impossible to drive out the old French and Catholic inhabitants and to replace them with others who sympathized more deeply with its institutions and customs... But events proved more powerful than their designs which always shattered against unforeseen obstacles. So public right was established in the country, and finally Lower Canada legislators preceded the judges and lawmen of England in affirming solely by force of the intimate conscience of the social condition of the colony, the equality of all religions in the eyes of the law as a principle of colonial legislation, and that in the light of the condition of this province where it is particularly applicable, this principle must receive the sanction of the legislative assembly as the basis of our social policy." (Pp. 256-57)

In the Canadian beginning there was only one faith: the state religion of the conquering British. But these unharsh conquerors immediately accorded substantial, but not full, rights to the majority of the residents of the territory they had conquered, the Catholic French Canadians; these substantial but limited rights were theirs by treaty, by public law, and by the successive constitutions of the land.

But the rights which even Catholics possessed, to register births, to marry, to bury, to consecrate house of worship, etc., were not accorded to Protestants other than of the Church of England and Ireland.

In Canada at first they had no more recognition from the state than did the Jews. So one phase of Canadian history consists of the Church of Scotland, Wesleyan Methodists, Jews, etc., etc., fighting this discrimination; all allies of the Catholics, seeking to break down the primacy and monopoly of the Church of England.

"At the commencement of our Lower Canada history there were four distinct classes of religion in the colony: the Catholic religion, whose freedom was guaranteed by the act of capitulation and the treaty; the Anglican religion, which the government first sought to impose as the state religion; the dissident Protestants, who were looked upon askance and whose religious acts were questioned by the English lawmen; finally the Jews, treated even less fairly, who were even refused the enjoyment of several civil rights.

"The dissidents and the Jews were the first to receive the attention of the legislature." (Pagnuelo, P.258)

The post-conquest history of the status of the various creeds in the colony is the story of how each of them sought and fought to establish their right to exist, their right to status, and their sense of freedom -- a battle waged by each of them against the established Church of England which initially was enjoying a monopoly of official status as the established and fully empowered church. The Roman Catholic Church, the other Protestant denominations and the Jews -- not to speak of atheists -- each had to battle for the right to function. They fought separately, not in concert.

This long history of one of the Canadian freedoms is not a smooth upward graph of progress. Jews were not the only ones cast in the role of victims; indeed their liberation came more smoothly than some others, and not last.

Pagnuelo details the very slow and halting steps towards recognition of such churches as the Church of Scotland, Wesleyan, Methodist, etc., region by region, issue by issue, especially after 1820.

Generally, as he tells it, "it was the Assembly, where the French and Catholic element was overwhelming, that accepted the first legal step in favour of the dissidents" and it was the council and the crown which tended to reduce or to disallow such measures. Thus an 1825 effort on behalf of the Wesleyan Methodists passed by the Assembly came to naught that year, was fought by the Anglican clergy and Chief Justice J. Sewell the following year and failed of royal assent. It was only in 1829 that it passed after further modifications.

The timing of any act for a freedom is crucial for its understanding, and the 1828 Jewish petition needs to be put within the conspectus of Lower Canada religions.

As far back as 1795 the law recognized that Protestant churches may keep registers, but interpretation of the clause proved regressive and limited this privilege to those of the established religion, and as late as 1827 a statute defined it only to include those of the Church of Scotland as well.

An 1804 law recognized marriages that had been performed before that date by dissident Protestant ministers, but not those to be performed after that date.

Similar enactment of regional character were passed for the Gaspé in 1821 and for the St. François district in 1825. (Pagnuelo, Pp. 163-64)

It is tempting to see this chapter of New World history in terms of black and white, as one of the steps towards wider liberty, which it certainly was. But to understand the considerations in the minds of the participants it is helpful to place it in Canadian context -- and even more broadly.

Jan. 23, 1829 documents from Justice Bowen and from Jonathan Sewell, in the form of dissents which sought to block the Legislative Council from acting to relieve Wesleyans and possibly others, spell out the seriousness of the distant colony in northern North America establishing procedures and precedents which the motherland had not yet dared.

Public acts performed by the ministers of these religions, such as baptisms, marriages, burials, consecration of land for purposes of worship, etc., were not recognized and maintained by the courts. The marriages which they performed had no legal value, and they could not keep valid registers of the civil status. Dissidents were therefore forced to have such acts performed by Anglican ministers, for the Catholic priest would have refused to do so on behalf of Protestants although the law may have recognized his right to do so.

The experiences of such Christians as the Wesleyan Methodists in 1825, taken almost at random, portray the rather harsh exchanges of the time.

They were the first to enjoy the good will of the Legislative Assembly -- Pagnuelo emphasizes that it was French-dominated -- in the years-long drive to widen religious liberties.

The Chamber passed a measure for their relief, but when it was conveyed to the Legislative Council it became burdened with such amendments as:

"The Minister of any Congregation or Religious Community of Protestants, within any City, Town, Seigniorship or Township of this Province, being Dissenters from the Church of England or Scotland, who shall enter into a recognizance to His Majesty, in the sum of two hundred pounds, with two good and sufficient securities, each in the sum of one hundred pounds, that he will follow and observe the forms, rules and regulations herein-after prescribed, and who shall be licensed in the manner herein-after required, shall be authorized to keep a register of births or baptisms, marriages and burials of persons belonging to the Congregation or Religious Community, as above said, whereof he is Minister, and of none other...

"No person shall be deemed or taken to be a Minister of any such Congregation or Religious Community of Protestant Dissenters within the intent and meaning of this Act, unless the said Congregation or Religious Community consist of thirty families at the least, with a Chapel or Meeting House entirely appropriated to Divine Worship, and no other purpose, excepting that of a School for the instruction of youth, nor unless he be a subject of His Majesty by birth, (or naturalization), nor unless he shall have appeared or come before the Justices of the Peace, assembled in Quarter Sessions in the District or Inferior District in which he shall reside, and shall have within him at least, seven respectable persons, heads of families, and Members of the Congregation or Religious Community of Protestant Dissenters, to which he belongs, who shall declare him to be their Minister....

"That no such Minister so licensed, shall at any time celebrate Matrimony between any two persons applying therefor either of whom are under any legal disqualification to contract matrimony, nor unless both of them shall have been members of such Congregation or Religious Community of Protestant dissenters for at least six months before the time of the application to be married, nor unless he the said Minister on three several Sundays before he shall celebrate the marriage, shall openly and with a loud voice in the Chapel or Meeting House of such Congregation or Religious Community of Protestant dissenters, in some intermediate part of the forenoon service, declare his intention so to do, and shall at each time of making such declaration, also declare the number of times for which he shall have made such declaration." (March 11, 1826)

When these discriminatory clauses were sent down from the Council to the Assembly the bill thus amended was dropped.

In Jan. 1826 the problem was again placed before the Assembly. The Assembly again adopted a measure for relief, but in the Council the bill had rougher going. On Jan. 13, petitions were tabled by communicants from this group in Stanstead, Seigneurie du St. Armand, Montreal, Three Rivers and Shefford, Stukely, Brome and Bolton. Several days later, similar petitions were received from Barnston, Quebec, the Seigneurie de Lacolle et de Léry, and from Wesleyan congregations and ministers.

When the measure for the relief of the Methodists came before the Council, the Church of England petition was read at the beginning of the debate. In an ill-concealed provocation to the petitioners and the Assembly, the Legislative Council repeated practically verbatim the oppressive amendments it had adopted a year earlier.

But Justice Jonathan Sewell, Speaker of the Council, recorded his dissent to this bill on the Wesleyans even thus amended. It was a position which succeeded in injuring the cause and came to hamper the entire movement of the liberation of religious groups:

"Because, the Christian Religion being the law of the British Empire, and the Church of England and Ireland, as well as the Church of Scotland Constituent parts of the Imperial Government, it cannot be competent to the subordinate and dependent Legislature of a Province to affect the one or the other, directly or indirectly, by any of its Acts; yet the Bill violates the principles of the former, and the tenets and discipline of the latter, by a legislation which sanctions the administration of the Holy Sacrament of Baptism by the Ministry of mere laymen.

"Because, it affects the interests of the Clergy of the Churches of England, Ireland and Scotland, by taking from them (without any indemnity whatever) the fees to which, as Priests of those establishments, and consequently public Officers of the Imperial Government, they are now entitled upon Baptisms, Marriages and Sepultures.

"Because, in the year 1823, a Bill for the Marriage of Dissenters was introduced into the House of Lords, in which all that was asked was that, after having gone through the forms required by Law, and having paid the fees due to the established Churches, Dissenters should be allowed to marry in their own chapels, and that their Marriages should afterwards be regularly registered by the Clergymen of the parish, yet even this Bill was rejected upon the first reading.

"Because, the Bill confides the execution of a public trust, (that is to say, the keeping of the Public Registers of Baptisms, Marriages and Burials) to every private individual who may be elected to be a Preacher to any sect, that is to say to persons who being private individuals and no more, may happen to be elected by a few other individuals to a nominal and private situation in which the public has no concern whatever, and over which persons the King's Government neither has, nor can have, any control whatever.

"Because, the Bill tends to facilitate clandestine Marriages, and Bigamy, by confiding the rights of celebrating Marriages to individuals over whom the Government has no control, and to all sects, whatever their tenets may be.

"Because, the Bill by multiplying the Registers of Baptisms, Marriages and Burials, to an extent which cannot be foreseen, almost defeats the very objects which by one general Register they are designed to promote, and will greatly increase the difficulties and the expences of all researches as to the Birth, Marriage or Death of any individual in time to come.

"Because, the Bill tends to encourage Schism, and to foster dissentions in Religion, by raising the most unlettered labourer, if he is a Preacher to any sect, to the power and to the rank of the regular Priesthood. A premium which cannot fail to determine the sects which now exist, to resist all ideas of union with the established Churches, to encourage the foundation of new sects, with the same disposition ad infinitum to degrade the established Churches and ultimately Religion itself."

The Assembly, which a year ago had rejected the bill so amended by the Council, despaired of converting the upper chamber and accepted the enfeebled and even offensive measure, but Justice Sewell's objections prevailed at a higher level, and the measure failed of royal assent.

"It was only in 1829 that they began to authorize dissident ministers to maintain registers of future baptisms, marriages and deaths, thus recognizing the rights of these ministers to perform such acts. But there was not yet any general law to authorize all dissidents to celebrate marriages or to maintain registers of such marriages. The legislature recognized this power only in the cases of certain sects specifically named in statutes enacted in their favour." (Pagnuelo, Pp. 163-64)

When the Wesleyans finally attained their objectives in 1829, it was together with the Jews, as we shall see. At one point in the legislative procedure, the two issues were even identified in one bill.

In 1830 the bill in favor of the Jews of Lower Canada was passed but the Council sent an address to the Assembly suggesting that the measure be referred to the parliament at London since, in the view of the Council, the matter at issue came under the terms of the Act of 1791 and required approval of the imperial House of Commons before coming into effect. The Assembly did not accept this view and insisted on the rights of the colonial legislature to act in such matters. "From this date, all resistance ended, and the different Protestant sects needed only to ask for the right to maintain registers."

## IN THE LEGISLATURE

To look at the steps of this liberation in the halls of the colonial legislature:

As we trace the complex thread of the legislation which, in the event, granted the Jews the requisite status as a recognized religious group, we also need to note the parallel legislation affecting some Christians who were living under equally underprivileged conditions. We need to observe these for comparative purposes, in order to place the Jewish experience within the context of this liberation movement and because, at times, their legislative processes touch the actual Jewish movement.

Since all this occurred simultaneously, during the very days when there was activity on the Jewish petition, we shall separate out the record of the Christian concern from the daily Jewish annals by asterisks.

December 4, 1828

The crucial measure which first legally established the Canadian Jewish community in the colony came at a moment of flowering of Jewish desire for fuller freedom. There is probably no connection other than contemporaneity between the Jewish initiative before the legislature and Moses Hart's quest for a commission for his son Areli Blake (Canadian Jewish Archives, new series, no. 15, P. 20). But their conjunction in time validates their timeliness.

The parallel course of the Jewish petitions in the House of Assembly and in the Legislative Council did not run quite in the same direction.

The two chambers both received the same Petition. In the Assembly on December 4, 1828,

"A Petition of certain Israelites of the District of Montreal, whose names are thereunto subscribed, was presented to the House by Mr. Solicitor General, and the same was received and read; setting forth: That the Petitioners possessing the Jewish Faith are, by the present Laws of the Province of Lower Canada, deprived of the benefits of Public Registers to record the Births, Marriages and Deaths which occur among them; by reason whereof not only are they themselves, from the uncertainty and difficulty attending verbal evidence of such facts, exposed to great and serious inconvenience and loss, but the interests of their fellow-subjects of other religious denominations are much endangered: That as the persons of the Jewish Belief are increasing in the District of Montreal, and they are possessed of valuable real property in the Province, to which they are frequently adding by new acquisitions, they fear that the evils resulting from the want of authentic written evidence of Births, Marriages and Deaths among them will be greatly aggravated, to the detriment as well of themselves as of their fellow-subjects. That the persons who profess the Jewish Faith being, by the law of the Empire, entitled to hold real estate, by title from the Crown or the Subject, in the Colonies, and by that circumstance placed in a relation towards the rest of the Society differing in some particulars from that in which their Brethren residing in Great Britain and Ireland are situated; they humbly represent to the House that the establishment of some public record for the more certain and durable proof of the Births, Marriages and Deaths, occurring among those of the Jewish Faith in the District of Montreal, is necessarily demanded for the welfare of the community at large, as a measure calculated to obviate the many difficulties which may in

future arise on the subject of the descent and inheritance of lands and other property among the Israelites resident in this Province, and the engendering of controversies which may in numerous instances prove fatal to the titles of other subjects of His Majesty derived from the Petitioners or their descendants: That the Petitioners having no religious corporate body, are incapable of holding land in this Province as a place of interment for their deceased relations and friends, and that the piece of ground in the City of Montreal, appropriated for that use for three generations, during which the Petitioners and their ancestors have been settled in this Province, being for want of a Corporation vested in individuals, no certainty is felt by the Petitioners that the remains of their deceased relatives and friends will continue undisturbed, a state of insecurity which the Petitioners, from the peculiar tenets of their religion, and usages of their race, cannot contemplate without a degree of horror destructive of their comforts and happiness: That the Petitioners are desirous of being enabled to hold through the medium of incorporation, besides a place of burial for their dead, sufficient extent of land in the said City of Montreal, or its vicinity, upon which they may erect a building for the Celebration of their Religious Worship, and a fit habitation for a Minister of their persuasion. That in order to obtain these advantages, so essential to the happiness and prosperity of the Petitioners and their descendants, they are compelled to have recourse to the House. And they therefore pray that a law may be passed in Parliament granting to the Petitioners and others of the same persuasion, in the District of Montreal, the benefit of Public Registers for recording Births, Marriages and Deaths, and enabling them, by Trustees, or otherwise, to hold land for a place of burial, and for the erection of a place of Worship, and of a habitation for a Minister of their religion, the whole under such regulations and conditions, and in such manner as to the Parliament of this Province in its wisdom may seem meet."

Several years later Aaron Ezekiel Hart recalled in the Voice of Jacob of May 8, 1846 that the bill "was introduced into the Legislative Assembly, by the Honorable Charles Richard Ogden, lately Attorney-General of this Province, and at present filling the same office in the Isle of Man. He is connected, by marriage, with the Lord Chancellor of England, and is a gentleman who bore a high character in Lower Canada, for his liberal and enlightened views, in matters affecting the civil and religious liberty of its inhabitants."

We had come across the Hon. Mr. Ogden in the story of Eliza Hart (p. 11). Ogden was the member in the colonial Assembly for Trois-Rivières from May 1814 to July 1824 and from Sept. 1826 to Jan. 1833. After the events of 1838 he served on the Special Council from Apr. 1840 to Feb. 1841. When the Draper-Ogden regime was formed, the first government of the United Province of Canada, Ogden of course sat on the Executive Council and served as attorney general of Lower Canada from Feb. 1841 to Sept. 1842. He sat in the colonial Assembly for Trois-Rivières from April 1841 to Sept. 1844.

Upon motion of the Solicitor General, seconded by Mr. James Leslie, the Jews' petition was "referred to a committee of five members to examine the contents thereof and to report thereon with all convenient speed, with power to send for persons, papers and records." The committee: the solicitor general, Mr. James Stuart; Mr. Frédéric-Auguste Quesnel, Mr. Augustin Cuvillier and Mr. John Neilson. (Also Montreal Gazette, Dec. 11, 1828) Stuart's role in this legislation was confirmed in the Gazette of Jan. 28, 1831 (Supra, P. 117). Mr. Neilson, proprietor of the Quebec Gazette, printed the Journals of the House (of Assembly) of Lower Canada since 1792. One of the leading and independent personalities in the political life of the colony for half a century, he played an important part in the annals of its Jewish community. He sat in the Legislative Assembly of Lower Canada for Quebec County from March 28, 1818 to October 9, 1834.

A moderate reformer, he was sent to London in 1822 and in 1828 to plead his party views before the imperial government. But he broke with L.J. Papineau and the extreme reformers, and he lost his seat in 1834. He proceeded to England again in 1835 on behalf of the Constitutional Association of Lower Canada. (Encyclopaedia Canadiana)

During the uprising of 1837, on August 22, he refused the invitation of the governor to sit on the Executive Council, but accepted a seat on the Legislative Council (Aug. 22, 1837 to March 27, 1838).

He was named to the Special Council formed during the rebellion, from April 21, 1838 to its dissolution on February 10, 1841. There, notably, he was the only member to vote on November 13, 1839, against the motion which was the prelude to the union of the two Canadas. When the provinces were united Neilson sat on the Assembly of the Province of Canada for his County of Quebec from April 8, 1841 to September 23, 1844. On November 25 of that year he was named to colonial Legislative Council where he sat until his death, a few years after he received the letter from Aaron Ezekiel Hart, on February 1, 1848.

Whatever the significance of the participation in the formalities of the legislative process, several considerations may appear from a glance at these political personalities.

John Neilson recurs in the annals of Quebec Jewry as an active friend of the community, and particularly of the Hart family.

Similarly the name of James Stuart, later chief justice, reappears from time to time. He sat in the colonial Assembly for Montreal East from July 18, 1808 to March 1, 1810 and for Montreal from December 4, 1811 to February 9, 1820 -- according to J. Desjardins, Guide parlementaire de la Province de Québec, 1792-1902. Levis, 1902. Pp. 125, 133; he also sat simultaneously for the Buckingham seat from May 13, 1814 to February 6, 1815. From February 22, 1825 to July 5, 1827 he sat for William Henry (Sorel).

He was named to the Executive Council of the colony on July 6, 1827 where he served until February 10, 1841.

During the disrupted period of the uprising he served on the Special Council of Lower Canada from April 2, 1838 until June 1, 1838 and from November 11, 1839 as its chairman, until January 28, 1841. He continued to serve on the Special Council until July 14, 1841. He passed away on July 14, 1853.

James Leslie has a remarkable record of political service which spans three constitutional regimes and which he concluded as a charter member of the Senate of Canada, until his death on December 6, 1873.

This career began on Aug. 28, 1824 with his election to the House of Assembly for Lower Canada for Montreal East. He held that seat until the disruption of the colonial parliament on March 27, 1838.

With the establishment of the United Province of Canada in 1841, he sat in the new colonial Assembly, for Verchères, from Dec. 28, 1841 to March 11, 1848. On that date he was named to the Executive Council of the Lafontaine-Baldwin government, first as its president, to Sept. 14, 1848, then as Secretary of the Province to Oct. 27, 1851. He was member of the Legislative Council of the colony from May 23, 1848 to Confederation Day, 1867. By a quirk of formality, his appointment to the Senate predates confederation by five weeks, being dated May 22, 1867.

Frédéric-Auguste Quesnel, too, enjoyed a long legislative career. It began on July 25, 1820 when he was elected to the Assembly for Kent; he continued there after Sept. 2, 1830 as representative of its successor constituency of Chambly until Oct. 9, 1834.

Quesnel and Cuvillier are listed among the moderates of the French Canadian nationalists during the troubles which culminated in the violence of 1837 and 1838. They were overwhelmed by the group backing Louis-Joseph Papineau in the debates on the 92 resolutions. (R. Bilodeau and others. Histoire des Canadas. Montreal, Hurtubise, P. 334)

Quesnel was named to the Executive Council of the colony in the stormy days, on Aug. 22, 1837, and sat there until Feb. 10, 1841. By this date the two Canadas had joined into the United Province, and he sat on its Assembly for Montmorency, from Apr. 8, 1841 to Sept. 23, 1848. At this time he was raised to the Legislative Council, where he served until his death on July 28, 1866.

Augustine Cuvillier was a veteran of the Assembly, having been elected on May 13, 1814 for Huntingdon, a seat he held until Oct. 9, 1834. By this time it had become Laprairie.

When the colonies joined, Cuvillier represented the same county of Huntingdon in the new Assembly (Apr. 8, 1841-Sept. 23, 1844) and was its first speaker during his entire tenure.

December 5, 1828

The following day, after the initiating step was taken by Mr. Neilson in the Assembly, his opposite number in the Legislative Council, the Hon. Mr. John Richardson presented a Petition from certain Israelites, resident in the District of Montreal, praying that they may be allowed holding Registers of Births, Marriages and Burials and other objects."

Richardson is a distinguished figure in the annals of Canadian Jewry and is familiar to the readers of this history (Canadian Jewish Archives, new series, nos. 17 and 18, Pp. 279-87, 354, 395). He had sat in the National Assembly for Montreal East, 1792-96, and for Montreal West, 1804-8, in time to lead the Ezekiel Hart defence. In 1816 he was appointed to the Legislative Council where he sat for fifteen years, until 1831. For his last three months he was Speaker of the Council. It was during these years that he championed the Jewish and the Christian denominations in their battles for recognition.

For more than a quarter of a century, 1804-31, Richardson sat on the colonial Executive Committee.

December 13, 1828

To return to the Assembly: On the 13th of Dec., "Mr. Solicitor General, from the Special Committee to whom was referred the Petition of divers Israelites, resident in the District of Montreal, reported that the Committee had examined the contents of the said Petition, and had come to an opinion thereon, which he was directed to submit to the House whenever it shall be pleased to receive the same; and he read the Report in his place, and afterwards delivered it in at the Clerk's Table, where it was again read, as followeth:

"Your Committee, having carefully examined the Petition referred to them, are of opinion that the prayer thereof ought to be granted.

"On motion of Mr. Solicitor General, seconded by Mr. Louis Lagueux,

"Ordered, That Mr. Solicitor General have leave to bring in a Bill to extend certain privileges therein mentioned, to persons of the Jewish Faith, and for the purpose of obviating certain inconveniences to which others of His Majesty's subjects might be exposed.

"He accordingly presented the said Bill to the House, and the same was received, and read for the first time.

"Ordered, That the said Bill be read a second time on Friday next." (Also in Montreal Gazette, Dec. 18, 1828 and in Irish Vindicator of Dec. 19, 1828)

It might well be noted that the Jews' petition which had set the legislative process on foot had dealt with, of course, only complaints of the Jewish residents. But the draft of the legislation that followed in consequence was much broader. It sought to give relief to persons of the Jewish faith, but it also sought to obviate inconveniences suffered by other subjects. They remain unnamed in the Assembly bill, but, we shall see, an effort was made by the Legislative Council to name the Methodists in particular.

Clearly the legislature sought to resolve the problems of the dissentient Protestants who were to ride to equality on the coat-tails of the Jews.

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On that Dec. 13, 1828 the Legislative Assembly was also seized formally of the desires of the Wesleyan Methodists of Quebec. As we read in the Journals of the Assembly of that day,

"A Petition of the Minister and Official Members of the Wesleyan Methodist Society of the City Quebec, whose names are thereunto subscribed, was presented to the House by Mr. Neilson, and the same was received, and read; setting forth: That the Wesleyan Methodist Ministers in this Province, had, in virtue of the Act of the Thirty-fifth George Third Chapter four, and with the sanction of the Honorable Judges of the Court of King's Bench, kept Registers of Marriages, Baptisms and Burials, without any difference being made between them, and the Ministers of the Churches of England and Scotland, except in Quebec, where they have been refused, and of late years been withheld throughout the Province, in consequence of a Judgment rendered in the Court of Appeals at Quebec which is felt by them as a serious evil, in a political, civil, and religious point of view: That, in consequence of this privation, many of the Children in the Townships remain unbaptized, and His Majesty's subjects go into a Foreign State to be married, which is truly painful to the said Ministers and their Congregations, and which would be prevented, were Wesleyan Ministers supplied with Registers as formerly: That the Wesleyan Ministers and their several Congregations throughout the Province, have ever maintained the highest respect for the Laws and Institutions of the Province, Civil and Religious, and are, they trust, considered by their fellow-subjects as a peaceable and an orderly denomination of Christians, and as such confidently expect, in this age of religious toleration, the countenance and aid of the Legislature in every measure having a tendency to promote the temporal welfare, comfort and security of the class of Christians to which they belong: They have not brought forward at this application, their numerous Petitions and signatures as they did in one thousand eight hundred and twenty-six, from a conviction that the House is fully acquainted with their wishes, and reasonableness of their requests: That the Petitioners are greatly encouraged to renew their application when they consider the liberality manifested to their Body by His Majesty in various instances, and the constant encouragement they receive from Him on all other foreign stations, as well as His constant readiness to protect them in the enjoyment of their civil and religious rights, as was strongly expressed by His Majesty in Council, as appears in a Dispatch of the Right Honorable William Huskisson, to Sir John Keane, Lieutenant Governor of the Island of Jamaica, dated the twenty-second September, one thousand eight hundred and twenty-seven, in disapproving of a Bill passed there, by which an attempt was made to infringe on their civil and religious liberty. The Petitioners therefore humbly pray that the House will be pleased to pass a Bill for their relief, by granting to the Wesleyan Methodist Ministers, Registers in common with the Ministers of the Churches of England and Scotland.

"On Motion of Mr. Neilson, seconded by Mr. Solicitor General,

"Resolved, That the said Petition be referred to a Committee of five Members, to examine the contents thereof and report thereon with all convenient speed, with power to send for persons, papers, and records.

"Ordered, That Mr. Neilson, Mr. Solicitor General, Mr. Vallières, Mr. Viger and Mr. Leslie do compose the said Committee."

Indeed, on the 16th of December, "Mr. Neilson, from the Special Committee to whom was referred the Petition of the Ministers and Official Members of the Wesleyan Methodist Society of the City of Quebec, reported that the Committee had examined the contents of the said Petition, and had come to an opinion thereon, which he was directed to submit to the House, whenever it shall be pleased to receive the same; and he read the Report in his place, and afterwards delivered it in at the Clerk's Table, where it was again read, as followeth:

"Your Committee having considered the said Petition, and the proceedings formerly had in the House, in compliance with the former Petition of the Wesleyan Methodists, are of opinion that the prayer of the Petitioners ought to be granted, and that a Bill similar to the Bill passed in the House in One thousand eight hundred and twenty-six, in favour of the Wesleyan Methodists, be introduced.

"On Motion of Mr. Neilson, seconded by Mr. Caron,

"Ordered, That Mr. Neilson have leave to bring in a Bill to extend certain Privileges therein mentioned to the religious class of persons, denominating themselves Wesleyan Methodists.

"He accordingly presented the said Bill to the House, and the same was received and read for the second time.

"Ordered, That the said Bill be read a second time on Friday next."

December 19, 1828

The Assembly moved in its normal course on the bill. On the 19th of December indeed.

"A Bill to extend certain privileges therein mentioned, to persons of the Jewish Faith, and for the purpose of obviating certain inconveniences to which others of His Majesty's subjects might otherwise be liable, was, according to order, read a second time.

"On Motion of Mr. Solicitor General, seconded by Mr. Vallières,

"Resolved, That the said Bill be referred to a Committee of five Members, to report thereon with all convenient speed, with power to send for persons, papers and records.

"Ordered, That Mr. Solicitor General, Mr. Leslie, Mr. Quesnel, Mr. Viger and Mr. Lee do compose the said Committee."  
(Also Gazette, Dec. 22, 1828 and in Vindicator, Dec. 26, 1828)

The seconder of the motion, Joseph Rémi Vallières de Saint Réal, was another very active legislator of the age. We know of his relations with Eliza Hart.

Denis Benjamin Viger sat in the Assembly for 22 years:  
Jan. 18, 1808 to March 1, 1810 for Montreal West; Apr. 21, 1810 to Feb. 29, 1816 for Leinster; Apr. 25, 1816 to Sept. 2, 1830 for Kent. He was raised to the Legislative Council on Nov. 30, 1829 and served until March 27, 1838.

He was virtually the first prime minister of the newly united province of the two Canadas, jointly with Draper, as the president of its first Executive Council (Dec. 12, 1843-June 17, 1846). He sat in the Assembly of that colony for Richelieu from Apr. 8, 1841 to Sept. 23, 1844 and for Trois Rivières from July 14, 1845 to Dec. 6, 1847. He died Feb. 13, 1861. (Canadian Jewish Archives, no.18)

Thomas Lee had a shorter parliamentary career, for it was cut off by his death even as he was sitting in the Assembly on Aug. 29, 1832 for Quebec Basse-Ville. He had been elected on Nov. 23, 1809 for Northumberland and sat until Feb. 29, 1816. The Quebec City voters chose him to sit from Apr. 11, 1820 to May 29, 1820 and from Oct. 26, 1830 to his last days.

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The House of Assembly gave due attention to the Methodist petition, and on Dec. 20 Mr. Quirouet, "from the Committee of the whole House on the Bill to extend certain privileges therein mentioned to the religious class of persons denominating themselves Wesleyan Methodists, reported, according to order, the amendment made by the Committee to the said Bill; and he read the Report in his place, and afterwards delivered it in, with the Bill, at the Clerk's table, where the amendment was again read.

"On Motion of Mr. Neilson, seconded by Mr. Samson,

"Ordered, That the question of concurrence be now put upon the said amendment.

"And the said amendment being again read, and the question of concurrence being put thereon, it was agreed to by the House, and

"Resolved, That this House doth concur with the Committee in the said amendment.

"Ordered, That the said Bill, as amended, be engrossed."

On Dec. 23, 1828 in the Assembly to further the liberties of Dissenters, "On Motion of Mr. Neilson, seconded by Mr. Mousseau,

"Ordered, That Mr. Neilson have leave to bring in a Bill for the relief of certain Religious Congregations therein mentioned.

"He accordingly presented the said Bill to the House, and the same was received and read for the first time.

"Ordered, That the said Bill be read a second time on Saturday next."

Finally on the day before Christmas, on Dec. 24, 1828, "An Engrossed Bill, to extend certain privileges therein mentioned, to the religious class of persons denominating themselves Wesleyan Methodists, was read for the third time.

"On Motion of Mr. Neilson, seconded by Mr. Lefebvre,

"Resolved, That the Bill do pass, and that the Title be, 'An Act to extend certain privileges therein mentioned, to the religious class of persons denominating themselves Wesleyan Methodists.'

"Ordered, That Mr. Neilson do carry the said Bill to the Legislative Council, and desire their concurrence."

In the meantime Richardson presented a petition before the Legislative Council on Dec. 26, 1828 praying for relief.

The Dissenters' Bill came up on Dec. 27, 1828 before the Assembly,

"A Bill for the relief of certain Religious Congregations therein mentioned, was, according to order, read a second time.

"On Motion of Mr. Neilson, seconded by Mr. Poirier,

"Resolved, That the said Bill be referred to a Committee of five Members, to report thereon with all convenient speed, with power to send for persons, papers and records.

"Ordered, That Mr. Neilson, Mr. Viger, Mr. Borgia, Mr. De St. Ours and Mr. Quirouet do compose the said Committee."

On the 29th the Hon. Mr. Debartzch presented to the Council petitions from the American Presbyterian Society in Montreal and from the Presbyterian Church and Congregation assembling in St. John's Chapel of the City of Quebec which were ordered to lie on the table.

The Presbyterian American Society of Montreal followed the Jewish procedure and, on Dec. 29, 1828 placed before the Assembly,

"A Petition of the Trustees and Members of the Presbyterian American Society of Montreal, whose names are thereunto subscribed, was presented to the House by Mr. Leslie, and the same was received and read; setting forth: That it hath been decided in Provincial Court of Appeals, that the Statute which requires the enregistration of Marriages, Baptisms and Burials in Lower Canada, does not authorize the granting of Registers to any other Protestant Minister than those of the Established Churches of England and Scotland: That the adherence to the principle upheld by the decision aforesaid, in His Majesty's Court of Appeals, will be productive of the most serious privation and inconvenience to the Petitioners; who, although having been for a long time a regular established Congregation, professing the Presbyterian Faith and form of Worship, under a regular educated and ordained Clergyman, having nevertheless been prevented from obtaining from him, as their pastor, the performance of those Clerical Duties so essential to the safety and well being of society: That therefore the Petitioners humbly pray that the House taking into consideration the disability under which they are placed, will be pleased to pass a Bill for their relief, authorizing their Pastor to solemnize Marriages, administer Baptisms, and Bury the Dead, and to have for that purpose Registers

authenticated according to Law; and also giving to the there-under-signed Trustees and their successors in office, the privilege of holding in their said capacity and for the benefit of the said Society their House of Worship, a Parsonage House, and Grounds for the Burial of the Dead, as well as the privilege in their said capacity of sueing and being sued in all the concerns of the said Society.

"On Motion of Mr. Leslie, seconded by Mr. Neilson,

"Resolved, That the said Bill be referred to a Committee of five Members, to report thereon with all convenient speed, with power to send for persons, papers and records.

"Ordered, That Mr. Leslie, Mr. Neilson, Mr. Cannon, Mr. Cuvillier and Mr. Quesnel do compose the said Committee."

On Dec. 31, 1828, the Assembly sent a Message by Mr. Neilson "with a Bill intituled, 'An Act to extend certain privileges therein mentioned, to the religious class of persons denominating themselves Wesleyan Methodists,' to which they desire the concurrence of this House.

"The Bill was read for the first time.

"Ordered, That the said Bill be read for the second time on Monday next." (Journals of Legislative Council)

On Jan. 5, 1829 the Council Journals note,

"Hadie 2<sup>a</sup> vice lecta est Billa, intituled, 'An Act to extend certain privileges therein-mentioned to the Religious class of Persons denominating themselves Wesleyan Methodists.'

"Ordered, That the said Bill be committed and to a committee of the whole House on Monday next."

The new committee on the Presbyterian petition duly reported on Jan. 9, 1829, as the Journals of the Assembly record,

"Mr. Leslie, from the Special Committee to whom was referred the Petition of the Trustees and Members of the Presbyterian American Society of Montreal, reported that the Committee had examined the contents of the said Petition, and had come to an opinion thereon, which he was directed to submit to the House, whenever it shall be pleased to receive the same; and he read the Report in his place, and afterwards delivered it in at the Clerk's table, where it was again read, as followeth:

"Your Committee after mature deliberation, are of opinion that the prayer of the Petitioners ought to be granted.

"On Motion of Mr. Leslie, seconded by Mr. Solicitor General,

"Ordered, That Mr. Leslie have leave to bring in a Bill to afford relief to a certain Religious Congregation at Montreal, denominated Presbyterians.

"He accordingly presented the said Bill to the House, and the same was received and read for the first time.

"Ordered, That the said Bill be read a second time on Tuesday next."

On Jan. 12, 1829 the Council "according to order, was adjourned during pleasure and was put into a Committee of the whole House on the Bill, intituled, 'An Act to extend certain privileges therein-mentioned to the religious class of Persons denominating themselves Wesleyan Methodists.'

"After some time the House was resumed, and the Honorable Mr. Justice Taschereau, reported from the said Committee, 'That they had made some progress in the said Bill and prayed leave to sit again.'

"Agreed and Ordered.

"That the House do resolve itself again into a Committee of the whole House on the said Bill on the next sitting day."

On Jan. 13, 1829 "A Bill to afford relief to a certain Religious Congregation at Montreal, denominated Presbyterians, was, according to order, read a second time.

"On Motion of Mr. Leslie, seconded by Mr. Solicitor General,

"Resolved, That the said Bill be referred to a Committee of five Members, to report thereon with all convenient speed, with power to send for persons, papers and records.

"Ordered, That Mr. Leslie, Mr. Solicitor General, Mr. Cannon, Mr. Neilson and Mr. Valois do compose the said Committee."

Jan. 13, 1829

And on Jan. 13 "Mr. Solicitor General, from the Special Committee to whom was referred the Bill to extend certain privileges therein mentioned, to persons of the Jewish Faith, and for the purpose of obviating certain inconveniences to which others of His Majesty's subjects might otherwise be liable, reported that the Committee had gone through the Bill, and had made several amendments thereto, which he was directed to report to the House whenever it shall be pleased to receive the same; and he read the Report in his place, and afterwards delivered it in, with the Bill, at the Clerk's table, where the amendments were again read.

"On Motion of Mr. Solicitor General, seconded by Mr. Leslie.

"Ordered, That the said Bill and Report be referred to a Committee of the whole House.

"Resolved, That this House will, on Saturday next, resolve itself into a Committee of the whole House on the said Bill and Report."  
(also in Montreal Gazette of Jan. 19, 1829)

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The Council, on Jan. 14, "According to order, was adjourned during pleasure, and was again put into a Committee of the whole House on the Bill, intituled, 'An Act to extend certain privileges therein-mentioned to the religious class of persons denominating themselves Wesleyan Methodists.'

"After some time the House resumed, and the Honorable Mr. Justice Taschereau, reported from the said Committee, 'That they had made some further progress, in the said Bill, and prayed leave to sit again.'

"The question of concurrence being then put,

"Whether the Committee have leave to sit again?"

"Moved in amendment,

"That the said Bill be referred to a Special Committee of five Members.

"Ordered accordingly.

"Ordered, That the Committee be the Honorable Messrs. Hale, Caldwell, Ryland, Debartzch, and Felton, to meet and adjourn as they please."

On the 16th of January, 1829 "The Honorable Mr. Felton, from the Special Committee, to whom had been referred the Bill, intituled, 'An Act to extend certain privileges therein-mentioned to the Religious Class of Persons, denominating themselves Wesleyan Methodists,' reported, 'That the Committee had gone through the said Bill, and had directed him to report the same without any amendment.'

"Ordered, That one of the Masters in Chancery do go down to the Assembly, and acquaint that House that the Legislative Council have passed this Bill with one amendment, to which they desire the concurrence of the Assembly."

In the meantime, on the 16th of Jan., the assembly continued with the Dissenters' Relief Bill. "Mr. Neilson, from the Special Committee to whom was referred the Bill for the relief of certain Religious Congregations therein mentioned, reported that the Committee had gone through the Bill and had made several amendments thereto, which he was directed to report to the House whenever it shall be pleased to receive the same; and he read the Report in his place, and afterwards delivered it in, with the Bill, at the Clerk's Table, where the amendments were again read.

"On Motion of Mr. Neilson, seconded by Mr. Bourdages,

"Ordered, That the said Bill and Report be referred to a Committee of the whole House.

"Resolved, That this House will, on Wednesday next, resolve itself into a Committee of the whole House on the said Bill and Report."

Jan. 17, 1829

So, on Jan. 17 "The Order of the Day for the House in Committee on the Bill to extend certain privileges therein mentioned, to persons of the Jewish Faith, and for the purpose of obviating certain inconveniences to which others of His Majesty's Subjects might otherwise be liable, being read;

"The House accordingly resolved itself into the said Committee.

"Mr. Speaker left the Chair.

"Mr. Clouet took the Chair of the Committee.

"Mr. Speaker resumed the Chair;

"And Mr. Clouet reported that the Committee had gone through the Bill, and had made several amendments thereto, which he was directed to report to the House whenever it shall be pleased to receive the same.

"Ordered, That the Report be now received.

"And he read the Report in his place, and afterwards delivered it in at the Clerk's Table, where the amendments were again read.

"On Motion of Mr. Solicitor General, seconded by Mr. Fortin.

"Ordered, That the question of concurrence be now separately put upon the said amendments.

"And the said amendments being again severally read, and the question of concurrence being separately put thereon, they were agreed to by the House, and

"Resolved, That this House doth concur with the Committee in the said amendments.

"Ordered, That the said Bill, as amended, be engrossed."

Michel Clouet was member of the Assembly for Quebec County from Oct. 22, 1822 until his resignation Aug. 23, 1833.

Two days later "An engrossed Bill to extend certain privileges therein mentioned to persons of the Jewish Faith, and for the purpose of obviating certain inconveniences to which others of His Majesty's Subjects might otherwise be liable, was read for the third time.

"On Motion of Mr. Solicitor General, seconded by Mr. Lefebvre,

"Resolved, That the Bill do pass, and that the Title be "An Act to extend certain privileges therein mentioned to persons professing the Jewish Faith, and for the obviating certain inconveniences to which others of His Majesty's Subjects might otherwise be exposed.'

"Ordered, That Mr. Solicitor General do carry the Bill to the Legislative Council, and desire their concurrence." (Also in Montreal Gazette, Jan. 26, 1829)

In the meantime the Legislative Council had been seized of the Jewish complaint. It too, like the Legislative Assembly, was acting on the petition, which had been presented to that body on December 5, 1828 by Mr. John Richardson, "from certain Israelites, resident in the District of Montreal, praying that they may be allowed holding Registers of Births, Marriages, and Burials and other objects."

(The French translation is interesting. It speaks not of "naissances" as does the petition, but of "baptêmes".)

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On that Jan. 19, in the Legislative Council, "The order of the day being read for the third reading of the Bill, intituled, 'An Act to extend certain privileges therein mentioned to the Religious Class of persons denominating themselves Wesleyan Methodists,'

"Ordered, That the said order of the day be discharged, and that the said Bill be committed, and to a Committee of the whole House in the next sitting day."

Jan. 20, 1829

On Jan. 20, 1829, the Legislative Council received "A Message from the Assembly by Mr. Solicitor General with a Bill, intituled, 'An Act to extend certain privileges therein-mentioned to persons professing the Jewish Faith and for obviating certain inconveniences to which others of His Majesty's Subjects might otherwise be exposed,' to which they desire the concurrence of this House.

"This Bill was read for the first time.

"Ordered, That the said Bill be read for the second time on Friday next."

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The same day, on Jan. 20, 1829, the Legislative Council, "According to order, adjourned during pleasure, and was put into a Committee of the whole House on the Bill intituled, 'An Act to extend certain privileges therein-mentioned to the religious class of persons denominating themselves Wesleyan Methodists.'

"After some time the House was resumed, and the Honorable Mr. Bell reported from the said Committee, 'That they had gone through the said Bill, and had directed him to report the same without any amendment.'

"The House agreed with the Committee.

"Ordered, That the said Bill be read for the third time, on the next sitting day."

The next day, on the 21st, "The order of the day being read for the third reading of the Bill, intituled, 'An Act to extend certain privileges therein-mentioned to the Religious class of persons denominating themselves Wesleyan Methodists,'

"It was moved,

"That the said order of the day be discharged, and that the said Bill be now committed and to a Committee of the whole House.

"The same being objected to,

"After debate,

"The question of concurrence being put on this motion,

"It was resolved in the affirmative.

"The House, according to order, was adjourned during pleasure, and was put into a Committee of the whole House on the said Bill.

"After some time the House was resumed, and the Honorable Mr. Felton, reported from the said Committee, 'That they had gone through the said Bill and made several amendments thereto, which he was ready to report whenever the House shall be pleased, to receive the same.'" (Journals of Legislative Council)

In the meantime the lower house continued its deliberation on the underprivileged groups.

On the 21st of Jan. it returned to the Dissenters' Bill.

"The Order of the Day for the House in Committee on the Bill for the relief of certain Religious Congregations therein-mentioned, being read;

"The House accordingly resolved itself into the said Committee.

"Mr. Speaker left the Chair.

"Mr. Larue took the Chair of the Committee.

"Mr. Speaker resumed the Chair,

"And Mr. Larue reported that the Committee had gone through the Bill, and had made several amendments thereo, which he was directed to report to the House whenever it shall be pleased to receive the same.

"Ordered, That the Report be received on Friday next."

While the Assembly was thus engaged with what it called the Dissenters' Bill, the Legislative Council on Jan. 22 heard "The Honorable Mr. Felton, according to order, reported the Amendments made by the Committee of the whole to the Bill, intituled, 'An Act to extend certain privileges therein-mentioned to the Religious Class of Persons denominating themselves Wesleyan Methodists.

"And the first and second amendments being then read,

"They were agreed to by the House.

"The third amendment being also read,

"It was agreed to with several amendments.

"And the said amendments, as amended, being then read a second time by the Clerk, are as follows:

"Press 1st, line 21st -- After 'Methodists' insert 'being previously licenced by the Governor or Lieutenant Governor, or Person administering the Government for the time being.'

"---line 27th -- Leave out from 'any' inclusive, to 'officiate' also inclusive, in the 29th line of the same Press, and insert 'The Governor, Lieutenant Governor, or Person administering the Government for the time being.'

"---line 40th -- Leave out from 'such' inclusive, to 'more' also inclusive, in the 41st line of the same Press, and insert, 'it shall and may be lawful to and for the Governor, Lieutenant-Governor, or Person administering the Government for the time being, to grant the prayer of the said Petition if he shall see fit, and to issue His Licence under his Hand and Seal to the said Petitioner, to have and keep Registers for the purposes aforesaid, any law, usage or custom to the contrary notwithstanding.'

"Ordered, That the said amendments, as amended, be engrossed."

The next day, on Jan. 23, in the Assembly "Mr. Larue, from the Committee of the whole House on the Bill for the relief of certain Religious Congregations therein mentioned, reported, according to order, the amendments made by the Committee to the said Bill; and he read the Report in his place, and afterwards delivered it in, with the Bill, at the Clerk's table, where the amendments were again read.

"On Motion of Mr. Neilson, seconded by Mr. Bureau,

"Ordered, That the question of concurrence be now separately put upon the said amendments,

"And the said amendments being again severally read, and the question of concurrence being separately put thereon, they were agreed to by the House, and

"Resolved, That this House doth concur with the Committee in the said amendments.

"Ordered, That the said Bill, as amended, be engrossed."

And on the same day, Jan. 23, 1829, it dealt with the problem of the Montreal Presbyterians. That day "Mr. Leslie, from the Special Committee to whom was referred the Bill to afford relief to a certain Religious Congregation at Montreal, denominated Presbyterians, reported that the Committee had gone through the Bill without making any amendment thereto, which he was directed to report to the House whenever it shall be pleased to receive the same; and he read the Report in his place, and afterwards delivered it in, with the Bill, at the Clerk's table, where the Report was again read.

"On Motion of Mr. Leslie, seconded by Mr. Solicitor General,

"Ordered, That the said Bill and Report be referred to a Committee of the whole House.

"Resolved, That this House will, on Wednesday next, resolve itself into a Committee of the whole House on the said Bill and Report."  
(Journals of Legislative Assembly)

Even as the assembly was pursuing its program on behalf of these Protestant groups, the Legislative Council was on its own course towards a similar objective.

The same Jan. 23, 1829, the Journals of the Assembly also tell us that "A Message from the Legislative Council by the Honorable Mr. De Léry, the Speaker...that the Legislative Council have passed, with several amendments to which they desire the concurrence of the House of Assembly: 'An Act to extend certain privileges therein mentioned to the Religious Class of persons denominating themselves Wesleyan Method-ists.'

"And then he withdrew.

"Mr. Leslie, from the Special Committee to whom was referred the Bill to afford relief to a certain Religious Congregation at Montreal, denominated Presbyterians, reported that the Committee had gone through the Bill without making any amendment thereto which he was directed to report to the House, whenever it shall be pleased to receive the same; and he read the Report in his place, and afterwards delivered it in, with the Bill, at the Clerk's table, where the report was again read.

"On Motion of Mr. Leslie, seconded by Mr. Solicitor General,

"Ordered, That the said Bill and Report be returned to a Committee of the whole House.

"Resolved, That this House will, on Wednesday next, resolve itself into a Committee of the whole House on the said Bill and Report."

At this point, the Wesleyans -- and possibly not only the Wesleyans -- ran into serious troubles. This occurred in the Legislative Council on Jan. 23, 1829.

There the Council "Hodiè 3â, vice lecta est Billa, intituled, 'An Act to extend certain privileges therein mentioned to the religious Class of Persons denominating themselves Wesleyan Methodists.'

"The question was put,

"Whether this Bill, as amended, shall pass?

"It was resolved in the affirmative."

But now we had the Dissentit of Jonathan Sewell:

"1st. - For the reasons assigned in the Protest recorded in the Journals of this House on the 16th of March 1826, upon the Bill, intituled, 'An Act to provide for keeping Registers of Baptisms, Marriages and Burials for Congregations or Religious Communities of Protestant Dissenters,' which Bill was reserved for the signification of the King's Pleasure, and did not receive the Royal Assent.

"2d. - Because the present Bill does not contain even enactments, which were inserted in the former Bill, for security and protection against the misconduct of those whom it admits to public office

upon the nomination and appointment of private individuals, forming it is true a Society which the Law tolerates, but which is, nevertheless, still a mere private Society over whose proceedings the Public have no control whatever, having no more right to interfere in the execution of an Act of Parliament than a Lodge of Free-Masons, a Friendly Society or any other voluntary association of a private character.

"3d. - Because the system of evidence by Actes Authentiques (records) which is declared to be the Law of this Province by the Statute 14, Geo. III. cap. 83, being founded upon the principle that the power of making an Acte Authentique (ie., of rendering it a record) cannot be derived to the Officer who makes it from any other source than the Crown, and consequently that an Acte Authentique cannot emanate from any other than a Public officer of the Government whose conduct is controlled by the Government itself, and not by a portion of its subjects. This principle by the present Bill is set at naught and the continuance of a system which has hitherto been found to be highly useful and beneficial to the interests of suitors and greatly to facilitate the administration of Justice, is endangered by being rendered uncertain from the want of that control to which in its present state it is subjected. (Signed) J. Sewell"

Chief Justice Jonathan Sewell is known to readers of Canadian Jewish history, in part from his ambiguous but active role in the Ezekiel Hart case. (Canadian Jewish Archives, new series, nos. 16-18, esp. P. 249)

Mr. Sewell's dissent was fortified by the dissent of Judge Bowen who indicated the extent of the constitutional revolution in English and colonial law implicit in these Lower Canada moves for religious equality.

Justice Bowen added his dissent,

"Because, the Bill grants to the persons denominating themselves Preachers or Ministers of the Wesleyan Methodists, and to their congregations, not merely the power of holding meetings for the religious worship of God in the manner most suitable to their own consciences, to which no one can or ought to object, but because it also grants to their said Preachers or Ministers indirectly and contrary to Law, the power and authority to celebrate Marriages, an authority which is not possessed by similar Preachers or Ministers in the United Kingdom of Great Britain and Ireland; and also because it confers upon their said Preachers or Ministers a right to have and keep Registers of Baptisms, Marriages and Burials, and to grant authentic Certificates thereof 'Actes authentiques' probatory of themselves in a Court of Justice without

calling any witness to substantiate the truth thereof, a right not known to the Law of England, and hitherto enjoyed only under the peculiar Law of Canada by the regularly ordained Ministers of the Gospel of the established Churches therein, or by some public officer holding his office as such by Letters Patent from the Crown.

"Because the Bill if it be intended to confer upon the said Preachers or Ministers, the legal right of celebrating marriage, ought to have conferred that right plainly and avowedly as demanded by them in their Petition presented to this House in the year 1826, wherein they prayed 'that an Act might pass authorizing them to solemnize Marriages to administer Baptisms, and to bury the dead and to have registers properly authenticated', in the place of which the Bill affects in indirect terms to confer that right without even subjecting the said Preachers or Ministers to any previous formality whether by publication of Banns, Licence from any known superior authority or consent of Parents, and because the Criminal Law of England as it stood at the Conquest of 1759, being the Criminal law of Canada, and the Statute of the 14, Geo.III. cap. 83, having enacted, 'That the same shall continue to be administered, and shall be observed as law in the Province of Quebec, as well in the description and quality of the offence, as in the mode of prosecution and trial;' it may be a question how far the felony contemplated in the Statute 26th Geo.II, cap. 33, the provisions of which were declared not to extend to Marriages celebrated beyond the seas, and whether this limitation of the Statute is not applicable to Marriages thereafter to be celebrated beyond the seas, in countries where the criminal law of England, as it stood in 1774, had never been formally introduced.

"Because the power and authority, thus indirectly granted by the Bill, materially affects and infringes upon the acknowledged and accustomed dues and fees payable to the Clergy of the established Churches in Canada, and as such ought not to become law until the conditions of the Statute 31st. Geo.III, cap. 31, commonly called the Quebec Act, have been duly complied with, and the Bill with a joint Address of the Legislative Council and Assembly shall have been transmitted to England, praying that it may become law, and that it shall have been lain upon the Table of both Houses of the Imperial Parliament during thirty days, previous to the signification of His Majesty's assent thereo.

"Because the Bill opens the door to the like concessions in favor of Dissenters of every other country and denomination resorting thither; thereby facilitating Clandestine Marriages, and by extending the power of creating Actes Authentiques, to persons not deriving their authority from the Crown. Quebec, 24th January, 1829."

Judge Bowen, too, has entered our history elsewhere (Canadian Jewish Archives, new series, no. 20) particularly as the subject of the complaint by young Mordecai Adolphus Hart.

Historian Pagnuelo commented on these dissenting opinions,

"The Anglican church held out longest because it was supported by the Crown and all the high dignitaries of the metropolis and of the colony. Nevertheless it was clearly not in its element from the moment we obtained responsible government, that is, majority government, for it was a tiny minority...Then it was that the Chamber of the Assembly which affirmed in 1829 the right of citizens to practice their religion freely, declared the principle of favoring all religions contrary to any preferences or distinctions incompatible with the state of our colony which the Crown had established in favour of the Church of England." (P. 259)

Nevertheless, the Council "Ordered, That one of the Masters in Chancery do go down to the Assembly, and acquaint that House that the Legislative Council have passed this Bill with several amendments, to which they desire the concurrence of the Assembly.

The following day, on Jan. 24, the Assembly, "On Motion of Mr. Neilson, seconded by Mr. Leslie,

"Ordered, That the amendments made by the Legislative Council to the Bill, intituled, 'An Act to extend certain privileges therein mentioned to the religious class of persons denominating themselves Wesleyan Methodists,' be now taken into consideration."

"The House accordingly proceeded to take the said amendments into consideration."

The amendments proposed were those on the record of the Council of Jan. 22, 1829,

"On Motion of Mr. Neilson, seconded by Mr. Bureau,

"Ordered, That the question of concurrence be now separately put upon the said amendments.

"And the said amendments being again severally read, and the question of concurrence being separately put thereon, they were agreed to by the House, and

"Restored, That this House doth concur with the Legislative Council in the said amendments.

"Ordered, That Mr. Neilson do carry back the Bill to the Legislative Council, and acquaint their Honors that this House hath agreed to their amendments."

At the same time, "On Motion of Mr. Stuart, seconded by Mr. Quirouet,

"Ordered, That Mr. Stuart have leave to bring in a Bill to afford relief to certain Religious Congregations at Quebec, denominated Presbyterians.

"He accordingly presented the said Bill to the House, and the same was received and read for the first time.

"Ordered, That the said Bill be read a second time on Tuesday next."

On the 26th of January the Assembly passed the Dissenters' Bill. As the Journals record it,

"An engrossed Bill for the relief of certain Religious Congregations therein mentioned, was read for the third time.

"On Motion of Mr. Neilson, seconded by Mr. Lefebvre,

"Resolved, That the Bill do pass, and that the Title be 'An Act for the relief of certain Religious Congregations therein mentioned.'

"Ordered, That Mr. Neilson do carry the said Bill to the Legislative Council, and desire their concurrence."

Jan. 26, 1829

The Legislative Council returned to the Jewish bill on Jan. 26, as the Journals of the Council record,

"Hodiè 2â vice lecta Billa, intituled 'An Act to extend certain privileges therein mentioned to persons professing the Jewish Faith, and for obviating certain inconveniences to which others of His Majesty's subjects might otherwise be exposed.'

"Ordered, That the said Bill be committed and to a Committee of the whole House on the next sitting day."

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That 26th of January the Council received "A Message from the Assembly by Mr. Neilson, to return the Bill, intituled, 'An Act to extend certain privileges therein mentioned to the Religious Class of Persons denominating themselves Wesleyan Methodists,' and to acquaint this House that the Assembly have agreed to the amendments made by this House to that Bill without any amendment."

Jan. 27, 1829

On the morrow, on Jan. 27th. in the Legislative Assembly,

"The House, according to order, was adjourned during pleasure, and was put into a Committee of the whole House, on the Bill, intituled, 'An Act to extend certain privileges therein mentioned to persons professing the Jewish Faith, and for obviating certain inconveniences to which others of His Majesty's Subjects might otherwise be exposed.'

"After some time the House was resumed, and the Honorable Mr. Hale reported from the said Committee, 'That he had made some progress in the said Bill, and prayed leave to sit again.'

"The question being then put,

"Whether the Committee have leave to sit again?"

"It was resolved in the negative.

"Ordered, That the said Bill be referred to a Special Committee of three Members, and that the Committee be the Honorable Messrs. Ryland, Grant and Felton, to meet and adjourn as they please."

(The Hon. John Hale sat on the Legislative Council for thirty years, from Dec. 3, 1808 to March 27, 1838; he died nine months later, on Dec. 24, 1838. He was speaker of the Council from Feb. 23, 1814 to Jan. 16, 1815.

(He also served on the colony's Executive Council from Dec. 28, 1820 until his death.

(The Hon. Herman Witsins Ryland sat on the Council from Dec. 17, 1811 to March 28, 1838; he died four months later, on July 20.

(The Hon. Charles William Grant served on the Legislative Council from Dec. 21, 1811 to March 27, 1838. He passed away on July 4, 1848.

(The Hon. William Bowman Felton sat on the Council from Apr. 4, 1822 to his death, on June 30, 1837.)

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The Presbyterian measure was still pending in the Assembly on Jan. 27, as the Journals put it,

"The Order of the Day for the second reading of the Bill to afford relief to certain Religious Congregations at Quebec, denominated Presbyterians, being read;

"On Motion of Mr. Laterrière, seconded by Mr. Raymond,

"Ordered, That the said Order of the Day be postponed till tomorrow."

That day, Jan. 27, 1829, the Legislative Council received "A Message from the Assembly by Mr. Neilson with a Bill intituled, 'An Act for the relief of certain Religious Congregations therein mentioned,' to which they desire the concurrence of this House.

"This Bill was read for the first time.

"Ordered, That the said Bill be read for the second time, on the next sitting day."

Jan. 28, 1829

On Jan. 28, 1829, "The Honorable Mr. Felton, from the Special Committee to whom had been referred the Bill, intituled, 'An Act to extend certain privileges therein-mentioned to persons professing the Jewish Faith, and for obviating certain inconveniences to which others of His Majesty's Subjects might otherwise be exposed,' reported from the said Committee, 'That they had gone through the said Bill, and made several amendments thereto, which he was ready to report whenever the House shall be pleased to receive the same.

"Ordered, That the said Report be received on the next sitting day."

At this point a complication enters into the development of this chapter in the history of the Jews of Canada, the Wesleyan.

This can be understood best when we place the entire subject in the larger framework of the annals of religions in Canada. We need to remember that the Jewish petition was but one step in this development; indeed the Jews were among the first of the non-Anglicans to show this initiative, and they preceeded many Christian denominations.

It is in this context that we suddenly read of a linking of the Jewish and Wesleyan efforts.

Later that day,

"The Honorable Mr. Felton presented a Bill, intituled, 'An Act for granting the rights of celebrating Marriages to the Ministers and Teachers of the Wesleyan Methodists, and to the Ministers of the Jewish Religion, under certain limitations and restrictions.'

"Ordered, That the same be now read.

"Hodiè Iâ. vice lecta est Billa, intituled, 'An Act for granting the rights of celebrating Marriages to the Ministers and Teachers of the Wesleyan Methodists, and to the Ministers of the Jewish Religion, under certain limitations and restrictions.'

"Ordered, That the said Bill be read for the second time, on Monday next.

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Even as the council was dealing with the Jewish petition, the assembly continued its parallel consideration of the legitimization of the Montreal Presbyterian community.

That same day, Jan. 28, "The Order of the Day for the House in Committee on the Bill to afford relief to a certain Religious Congregation at Montreal, denominated Presbyterians, being read;

"The House accordingly resolved itself into the said Committee.

"Mr. Speaker left the Chair.

"Mr. Raymond took the Chair of the Committee.

"Mr. Speaker resumed the Chair;

"And Mr. Raymond reported that the Committee had gone through the Bill and had made several amendments thereto, which he was directed to report to the House whenever it shall be pleased to receive the same.

"Ordered, That the Report be received on Friday next."

The Council Journals also inform us that "Hodiè 2â.vice lecta est Billa, intituled, 'An Act for the relief of certain Religious Congregations therein mentioned.'

"Ordered, That the said Bill be committed and to a Committee of the whole House on Monday next."

Indeed, on Jan. 30, in the Assembly, "Mr. Raymond, from the Committee of the whole House, on the Bill to afford relief to a certain Religious Congregation at Montreal, denominated Presbyterians, reported, according to order, the amendments made by the Committee to the said Bill; and he read the Report in his place, and afterwards delivered it in, with the Bill, at the Clerk's Table, where the amendments were again read.

"On Motion of Mr. Leslie, seconded by Mr. Young,

"Ordered, That the question of concurrence be now separately put upon the said amendments.

"And the said amendments being again severally read, and the question of concurrence being separately put thereon, they were agreed to by the House, and

"Resolved, That this House doth concur with the Committee in the said amendments.

"Ordered, That the said Bill, as amended, be engrossed."

On Jan. 30, the Assembly dealing as it has with the interest of the Presbyterians of Montreal brought those from Quebec into the liberation movement as, "On Motion of Mr. Stuart, seconded by Mr. Leslie,

"Ordered, That the Order of the Day for the second reading of the Bill to afford relief to certain Religious Congregations at Quebec, denominated Presbyterians, lost by the adjournment of Wednesday last, be revived, and that the said Bill be now read a second time.

"The said Bill was accordingly read a second time.

"Ordered, That the said Bill be engrossed."

So, on Feb. 2, 1829, "An engrossed Bill to afford relief to a certain Religious Congregation at Montreal, denominated Presbyterians, was read for the third time.

"On Motion of Mr. Leslie, seconded by Mr. Lefebvre.

"Resolved, That the Bill do pass, and that the Title be, 'An Act to afford relief to a certain Religious Congregation at Montreal, denominated Presbyterians.'

"Ordered, That Mr. Leslie do carry the said Bill to the Legislative Council, and desire their concurrence." and "An engrossed Bill to afford relief to certain Religious Congregations at Quebec, denominated Presbyterians, was read the third time.

"On Motion of Mr. Stuart, seconded by Mr. Larue,

"Resolved, That the Bill do pass, and that the Title be, 'An Act to afford relief to a certain Religious Congregation at Quebec, denominated Presbyterians.'

"Ordered, That Mr. Stuart do carry the said Bill to the Legislative Council, and desire their concurrence."

Jan. 31, 1829

On Jan. 31st in Council, "the Honorable Mr. Felton, according to order, reported the amendments made by the Special Committee to whom had been referred the Bill, intituled, 'An Act to extend certain privileges therein mentioned to persons professing the Jewish faith and for the obviating certain inconveniences to which others of His Majesty's subjects might otherwise be exposed.'

"The same amendments being then twice read by the Clerk, were severally agreed to by the House."

The amendments were largely of language, except for one that "Provided that before any Minister of the Jewish Religion shall be admitted to keep the Register as afore-mentioned, he shall be required to present a Petition to the Governor, Lieutenant-Governor, or Person administering the Government, subscribed by the Chairman and Trustees of the District for which he is to act, setting forth his name and addition, and praying to be licenced to keep a Register for the District therein-mentioned; and it shall, and may be, lawful to and for the Governor, Lieutenant-Governor, or person administering the Government for the time, to grant the prayer of the petition if he shall see fit, and issue his licence under his Hand and Seal to the said Petitioner, to have and keep Registers for the purposes aforesaid, and Law, usage or custom to the contrary notwithstanding." But the measure suddenly became two bills in the Council.

Feb. 2, 1829

On Feb. 2, in Council, "Hodiè 3 â. vice lecta est Billa, intituled, 'An Act to extend certain privileges therein-mentioned to persons professing the Jewish Faith, and for the obviating certain inconveniences to which others of His Majesty's subjects might otherwise be exposed.'"

The same day "The order of the day being read for the second reading of the Bill, intituled, 'An Act for granting the right of celebrating Marriages to the Ministers and Teachers of the Wesleyan Methodists, and to the Ministers of the Jewish Religion, under certain limitations and restrictions,'"

"Ordered, That the said order of the day be discharged, and that the said Bill be read for the second time, on Friday next."

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The Council also, "According to order, was adjourned during pleasure, and was put into a Committee of the whole House on the Bill, intituled, 'An Act for the relief of certain Religious Congregations therein-mentioned.'

"After some time the House was resumed."

The same day the lower house, the Legislative Assembly, moved to relieve the American Presbyterians of Montreal and of Quebec. The minutes of the assembly for Feb. 2, 1829 read,

"An engrossed Bill to afford relief to a certain Religious Congregation at Montreal, denominated Presbyterians, was read for the third time.

"On Motion of Mr. Leslie, seconded by Mr. Lefebvre,

"Resolved, That the Bill do pass, and that the Title be, 'An Act to afford relief to a certain Religious Congregation at Montreal, denominated Presbyterians.'

"Ordered, That Mr. Leslie do carry the said Bill to the Legislative Council, and desire their concurrence.

"An engrossed Bill to afford relief to certain Religious Congregations at Quebec, denominated Presbyterians, was read the third time.

"On Motion of Mr. Stuart, seconded by Mr. Larue,

"Resolved, That the Bill do pass, and that the Title be, 'An Act to afford relief to a certain Religious Congregation at Quebec, denominated Presbyterians.'

"Ordered, That Mr. Stuart do carry the said Bill to the Legislative Council, and desire their concurrence."

Feb. 3, 1829

Routinely, on Feb. 3, 1829 the Assembly received "A Message from the Legislative Council by the Honorable Mr. De Léry, one of the Masters in Chancery:

"Mr. Speaker, The Legislative Council have passed the Bill, intituled, 'An Act to extend certain privileges therein-mentioned, to persons professing the Jewish Faith, and for the obviating certain inconveniences to which others of His Majesty's subjects might otherwise be exposed,' with several amendments to which they desire the concurrence of the Assembly."

(The Hon. Louis René Chaussegros De Léry served on the Legislative Council from February 9, 1818 to his death on November 28, 1832.)

As the Montreal Gazette reported that day's proceedings, "The Jews Relief Bill was received from Council, amended, and the amendments ordered to be taken into consideration to-morrow."

Feb. 4, 1829

The following day, on Feb. 4, 1829, the Assembly considered "The Order of the Day for the House in Committee on the amendments made by the Legislative Council to the Bill, intituled, 'An Act to extend certain privileges therein mentioned to persons professing the Jewish Faith, and for the obviating certain inconveniences to which others of His Majesty's Subjects might otherwise be exposed,' being read:

"On Motion of Mr. Leslie, seconded by Mr. De Rouville,

"Ordered, That the said Order of the Day be postponed till Saturday next."

(Jean-Baptiste René Hertel de Rouville represented Bedford in the Assembly from Aug. 28, 1824 for fourteen years, to Sept. 2, 1838. For two of these years, Oct. 26, 1830 to Nov. 10, 1832, he also represented county Rouville which was formed in 1829 from a part of the Bedford. He resigned as Rouville assemblyman on Nov. 10, 1832.

(For one troubled year, Aug. 22, 1837 to March 27, 1838, he sat on the Legislative Council. He died on Feb. 1, 1848.)

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The same Feb. 4 the Legislative Council received a message from the Assembly by Mr. Leslie, with a "Bill, intituled, 'An Act to afford relief to a certain religious Congregation at Montreal denominated Presbyterians,' to which they desire the concurrence of this House.

"This Bill was read for the first time.

"Ordered, That the said Bill be read for the second time, on the next sitting day."

Feb. 6, 1829

Suddenly the measure acquires a new title in the Legislative Council as, on Feb. 6, 1828, it proceeded, "Hodiè. vice lecta est Billa, intituled, 'An Act for granting the rights of celebrating Marriages to the Ministers and Teachers of the Wesleyan Methodists and to the Ministers of the Jewish Religion under certain limitations and restrictions.'

"Ordered, That the said Bill be referred to a Special Committee of three Members and that the Committee be the Honorable Messrs. Richardson, Felton and Stewart, to meet and adjourn as they please."

This even while the Assembly was considering the bill for the relief of Jews and the amendments to it which the Legislative Council had proposed.

That Saturday, being the 7th of Feb. "The Order of the Day for the House in Committee on the amendments made by the Legislative Council to the Bill, intituled, 'An Act to extend certain privileges therein mentioned to persons professing the Jewish Faith, and for the obviating certain inconveniences to which others of His Majesty's subjects might otherwise be exposed,' being read;

"The House of Assembly then resolved itself into the said Committee.

"Mr. Speaker left the Chair.

"Mr. Dessaulles took the Chair of the Committee.

"Mr. Speaker resumed the Chair;

"And Mr. Dessaulles reported that the Committee had come to a Resolution, which he was directed to submit to the House whenever it shall be pleased to receive the same.

"Ordered, That the Report be now received.

"And he read the Report in his place, and afterwards delivered it in at the Clerk's table, where the Resolution was again read, as followeth:

"Resolved, That it is the opinion of this Committee, That this House doth concur with the Legislative Council in the said amendments.

"On Motion of Mr. Solicitor General, seconded by Mr. Dessaulles,

"Resolved, That this House doth concur with the Committee in the said Resolution.

"Ordered, That Mr. Solicitor General do carry back the said Bill to the Legislative Council, and acquaint their Honors that this House hath agreed to their amendments." (Also in Montreal Gazette of Feb. 16, 1829)

(Jean P. Dessaulles sat in the Assembly for Richelieu from Apr. 25, 1816 until Sept. 2, 1830 when St. Hyacinthe County was formed from part of Richelieu. Dessaulles came to represent it until he resigned on June 7, 1832.)

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Feb. 10, 1829

The discussion in the two Houses continued not quite in tandem. The Legislative Council continued to act on a bill which combined the Jewish and Methodist interests. So, on Feb. 10, 1829 the Hon. Mr. Felton from the Special Committee to whom had been referred the Bill intituled, 'An Act for granting the right of celebrating Marriages to the Ministers and Teachers of the Wesleyan Methodists and to Ministers of the Jewish Religion under certain limitations and restrictions,' reported 'That they had gone through the said Bill, and made several amendments thereto, which he delivered in at the Table.'

"Ordered, That the question of concurrence be put on the said amendments, on the next sitting day."

Feb. 11, 1829

On the 11th, "The order of the day being read for the question of concurrence being put on the amendments reported by the Special Committee, to whom had been referred the Bill, intituled, 'An Act for granting the right of celebrating Marriages to the Ministers and Teachers of the Wesleyan Methodists, and to the Ministers of the Jewish Religion, under certain limitations and restrictions,' was read in the Legislative Council.

"The said amendments being then twice read by the Clerk, were severally agreed to by the House.

"Ordered, That the said Bill, as amended, be engrossed."

Feb. 13, 1829

On the 13th of February, 1829 the Legislative Council "Hodiè 3â, vice lecta est Billa, intituled, 'An Act for granting the right of celebrating Marriages to the Ministers and Teachers of the Wesleyan Methodists and the Ministers of the Jewish Religion under certain limitations and restrictions.'

"The question was put,

"Whether this Bill shall pass?

"It was resolved in the affirmative.

"Ordered, That one of the Masters in Chancery, do go down to the Assembly, and acquaint that House that the Legislative Council have passed this Bill, to which they desire the concurrence of the Assembly."

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The same session of the Council received a "Message from the Assembly by Mr. Stuart, with a Bill, intituled, 'An Act to afford relief to a certain Religious Congregation at Quebec, denominated Presbyterians,' to which they desire the concurrence of this House.

"The Bill was read for the first time,

"Ordered, That the said Bill be read for the second time on Monday next.

"The Speaker declared this Assembly continued to tomorrow, at three o'clock in the afternoon, the House so decreeing."

Feb. 14, 1829

Feb. 14, 1829

On Feb. 14, 1829 the Assembly received "A message from the Legislative Council, by the Honorable Mr. De Léry, one of the Masters in Chancery:

"The Legislative Council have passed the following Bills, to which they desire the concurrence of the Assembly:

"An Act for granting the rights of celebrating Marriages to the Ministers and Teachers of the Wesleyan Methodists and the Ministers of the Jewish Religion, under certain limitations and restrictions.'" (also in Montreal Gazette, Feb. 20, 1829)

"Ordered, That one of the Masters in Chancery, do go down to the Assembly, and acquaint them that the Legislative Council have passed this Bill, to which they desire the concurrence of the Assembly."

The news was given to the Assembly by Mr. De Léry, one of the Masters in Chancery, who had just returned from the Legislative Council. He announced that the Council had passed a Bill, which he presented to the Assembly, to which they desire the concurrence of the House.

The Bill was read for the first time. It was ordered, that the said Bill be read for the second time on Monday next.

The Speaker directed the Assembly to adjourn at three o'clock in the afternoon, the House so adjourning."

Feb. 16, 1829

On the 16th of Feb. 1829, "the engrossed Bill from the Council granting the right of celebrating Marriages to the Ministers of the Wesleyan Methodists and the Ministers of the Jewish Religion was read the first time" in the Assembly. (Montreal Gazette, Feb. 23, 1829 and in Irish Vindicator of Feb. 20, 1829)

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The Legislative Council on Feb. 17, 1829 gave attention to the problems of the Presbyterians of Quebec and Montreal.

First Quebec "Hodiè 2â vice lecta est Billa, intituled, 'An Act to afford relief to a certain Religious Congregation at Quebec, denominated Presbyterians.'

"Ordered, That the said Bill with the Petition of the Pastor, Deacon and Members of that Congregation, presented to this House on the 29th of November last, be referred to a Special Committee of three Members, with an Instruction to enquire into the description, state and condition of the said Congregation, and that the Honorable Messrs. Caldwell, De Léry and Stewart do compose the said Committee, to meet and adjourn as they please."

Then "the Bill intituled, 'An Act to afford relief to a certain Religious Congregation at Montreal, denominated Presbyterians,' be now committed to a Committee of the whole House.

"Moved in amendment.

"To leave out the word 'now' and to insert in lieu thereof 'on the first day of August next.'

"The question of concurrence being put on this motion in amendment,

"It was resolved in the affirmative.

"And the question of concurrence being then put on the main motion as amended,

"It was resolved in the affirmative."

Feb. 23, 1829

But the Assembly seems not to have agreed to combining the causes of the Jewish and the Protestant groups. They insisted on their original bill, probably resenting Council's unnecessary interference with the Assembly conduct of its business and confident that Methodist interests were fully protected in the Assembly bill.

The Council bill was read in the Assembly on Feb. 23 and put over for the morrow.

Feb. 24, 1829

So, on the 24th of February, 1829 "an engrossed Bill from the Legislative Council, intituled, 'An Act for granting the right of celebrating Marriages to the Ministers and Teachers of the Wesleyan Methodists, and the Ministers of the Jewish Religion, under certain limitations and restrictions,' was according to order, read a second time.

"On Motion of Mr. Neilson, seconded by Mr. Solicitor General,

"Ordered, That the further consideration of the said Bill be postponed till the second of April next." (Also in Montreal Gazette, March 5, 1829)

The 24th of February the Council received "A Message from the Assembly by Mr. Young to return the Bill intituled, 'An Act to extend certain privileges therein-mentioned to persons professing the Jewish Faith, and for obviating certain inconveniences to which others of His Majesty's subjects might otherwise be exposed,' and to acquaint this House, that the Assembly have agreed to the amendments made by this House to that Bill without any amendment."

Feb. 26, 1829

In the meantime, the governor, through his civil secretary, Col. Yorke, asked James Stuart, the attorney general, for an opinion on the bill extending "certain privileges" to Jews.

Sir James Stuart (1780-1853) was solicitor general of Lower Canada 1805-9 and sat in the assembly for Montreal 1808-17 and for Sorel 1825-28. He served as attorney general from 1825 to 1831. In 1838 he was named chief justice of the colony. He was created a baronet in 1841.

Mr. Stuart replied on Feb. 26, 1829 (MG 11, Q series, vol. 194, Pt. 1; Jewish Disabilities, Canada and Jamaica, Return to an Address of the Honorable the House of Commons dated March 22, 1850. London, 1850, Pp. 4-5)

"In obedience to the commands of His Excellency the Administrator of the Government, I have perused a Bill passed by the Legislative Council and Assembly of this Province, intituled 'An Act to extend certain privileges therein-mentioned, to persons professing the Jewish Faith, and for the obviating certain inconveniences to which others of His Majesty's Subjects might otherwise be exposed;' and have now the honor of reporting my opinion on it, as required by His Excellency.

"By the 42nd. Section of the Act 31. Geo.3.C.31. by which the present constitution of Lower Canada was established, certain Acts passed by the Legislative Council and Assembly it is required, that previous to any signification of the King's Assent thereto, be laid before both Houses of Parliament in Great Britain; and it is declared that it shall not be lawful for His Majesty to signify his assent to such Acts 'till thirty days after the same shall have been laid before the said Houses, or to assent to any such Acts, in case either House of Parliament shall within the said thirty days address His Majesty to withhold his assent from such Acts.' And by the same Clause it is enacted that no such Act shall be valid unless The Legislative Council and Assembly shall in the Session in which the same shall have been passed, have presented to the Governor, an Address or Addresses, specifying that the Act contains provisions for some of the purposes in the said Clause specially described, and desiring that, in order to give effect to the same, such should be transmitted to England without delay, for the purpose of being laid before Parliament previous to the signification of His Majesty's assent thereto.

"Among the Acts in respect of which it is required that the formalities just mentioned should be observed, are those containing any provisions which shall in any manner relate to or affect the enjoyment or exercise of any religious form or mode of Worship.

"Within this description of Acts, the Bill now under consideration, I apprehend, is included, and, I am therefore humbly of opinion, that this Bill is of a nature necessarily to be reserved for the signification of His Majesty's Pleasure respecting the same, and that an Address of The Legislative Council and the Assembly and the transmission of the Bill to be laid before Parliament as required by the Section above cited, would be indispensable preliminaries to the giving of His Majesty's Assent to this Bill. But, I am also humbly of opinion that the provisions of the Bill are inexpedient, imperfectly and insufficiently framed, and not such as would be required to answer the purposes intended."

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The Legislative Council on March 9, 1829 heard from the Hon. Mr. Caldwell. "The Special Committee, to whom had been referred the Bill, intituled, 'An Act to afford relief to a certain Religious Congregation at Quebec denominated Presbyterians,' made the following report:

"That it would appear from the evidence taken before your Committee that the Congregation of St. John's Chapel seceded from the Scotch Presbyterian Church in Quebec about twenty-nine years since: that on the application of the Trustees to the London Missionary Society, Mr. Clerk Bentham came out from England and became their Minister.

"That as such under the Provincial Act 35, Geo.III. cap. 4, he kept a register for three or four years.

"That in consequence of a Judgment of the Court of King's Bench, such Register was no longer allowed them: the Saint John's Chapel was built in 1817. Mr. Bentham remained three or four years and was replaced by Mr. Dick who was sent out by the Edinburgh Missionary Society, who after remaining about seven years was succeeded by Mr. Pratt sent by the London Missionary Society, he remained eight or nine years and was succeeded by Mr. Parkes from the London Missionary Society, who after two years residence was succeeded by Mr. Bourne a native of England, who was settled in and ordained in the United States; but who on understanding there was a vacancy here, offered his services which were accepted by the Congregation of Saint John's Chapel. -- Saint John's Chapel was built thirteen years since.

"The Deacons of the Church from highly respectable Inhabitants are elected for life. Their duty is to advise with the Minister respecting the affairs of the Church, to examine those who are desirous of joining their Communion as respects their religious knowledge, motives for joining the Congregation and moral character, and make report to the Congregation who receive or reject them accordingly; the Congregation consists of from seventy to eighty heads of families. The Chapel is vested regularly by Deeds in the hands of Trustees for the benefit of the Congregation. They consider themselves as professing the doctrines of the Scotch Confession of Faith and declare their intention, should a vacancy occur in the Ministry, to send to one of the Presbyteries of the Church of Scotland for a Minister. Your Committee beg leave to report that from all the enquiries they have been able to make, the Deacons and Congregation of Saint John's Chapel are composed of a class of persons highly respectable. That they profess that permanency and consistency which ought to entitle their Ministers to keep a Register according to Law, and that your Committee had it in contemplation to amend the Bill sent up by the Assembly, so as to be in conformity with the amendments made by your Honorable House to the Bill for the relief of the Wesleyan Methodists, but understanding that a dispatch had been received by His Majesty's Representative which assigned the reasons why the Royal Assent was withheld from the Methodists Relief Bill in 1827, they requested Communication of the same which they herewith subjoin, and by which it would appear to your Committee to be most advisable to refrain from presenting the Bill referred to them to the consideration of your House."

At this time the Legislative Council was apprized of an extract of a dispatch from Lord Bathurst, Secretary of State at Downing St., addressed on Apr. 2, 1827 to the Earl of Dalhousie in regard to the case of Dissenters,

"His Majesty has been pleased to disallow the Bill for keeping Registers of Baptisms, Marriages and Burials for Congregations of Protestant Dissenters, because it authorizes the solemnization of Marriages, Baptisms and Burials by the Ministers of such Congregations of Protestant Dissenters. But His Majesty in Council cannot recognize the character of Ministers of Dissenting Congregations as the qualification for exercising any Civil or Ecclesiastical rights.

"Even if Marriage were to be considered only in the light of a Civil Contract there is no sufficient reason why Dissenting Ministers should be intrusted with the solemnization of it.

"The Bill has further been deemed objectionable, because notwithstanding the attempt which is made to define the term 'a dissenting Minister' it is obvious that under the provision of this Bill, evasions might readily be contrived by means of which, individuals might acquire the right of celebrating Marriage without really belonging to that class to which it is intended to confine the privilege. There is no provision for the punctual registration of the Licences to be granted to such Ministers, nor for preserving the Marriage Registries, nor for preventing fraudulent erasures in them. The Bill does not define what is to be understood by the term 'A Member of the Congregation.' For popular purposes the expression may be sufficiently precise, but it is far too vague and indeterminate when considered as a component part of the definition of a strict legal right."

The document was formally conveyed to the Council by Secretary C. Yorke, the rather active messenger of whom the reader of these annals will hear more in the months to come.

March 14, 1829

On March 14, 1829 the governor indicated that he reserved this bill "for the signification of His Majesty's pleasure thereon, the Act to extend certain privileges therein mentioned, to persons professing the Jewish Faith, and for obviating certain inconveniences to which others of His Majesty's Subjects might otherwise be exposed, as well as the Act to extend certain privileges therein mentioned to the Religious class of persons denominating themselves Wesleyan Methodists." (Also Montreal Gazette, March 16)

A copy of the bill was prepared that day for William Smith, clerk of the Legislative Council for transmission by Governor Sir George Kempt to the Secretary Sir George Murray on May 5, 1829.

For a year there was no legislative action in the matter.

This was no arbitrary action to delay passage. The constitution did require the governor to submit to London, prior to giving assent, any measure that affected the religious rights or status of residents of the colony. Yet the delay in this enactment comes to have some significance in view of the parallel history of later legislation in the same direction. The nature of the complications that arose are not clear. A braking force was operating somewhere in the mechanism of power; or constitutional issues only may have been involved.

In due course the Assembly was to note this limitation upon its powers and was to act vigorously.

March 30, 1829

All this was not unnoticed at the time; although the Quebec press of the period was not a model of aggressiveness, we nevertheless have a contemporary comment from Neilson's Quebec Gazette. (Quoted in the Montreal Gazette of March 30, 1829)

"The Bill allowing Wesleyan Methodist ministers to keep Registers of Births, etc. is of great interest to the Townships where the members of this persuasion are numerous and the population greatly dispersed, with few religious teachers. It is possible that efforts may be made in England, by persons connected with the Colony, to prevent these Bills from being sanctioned. Prudence, we should think, would require the inhabitants of the Townships to make one more effort to support their interests in England. A petition to His Majesty, getting it signed and forwarded, could not be very troublesome nor expensive; and there is no reason to believe that a respectful representation in favour of these bills would not outweigh any secret and interested representations against them should any be made...The Bill extending to the Jews the same facilities in regard to Registers of Births, etc., is no more than an act of justice to which they are entitled, as well as every other religious denomination in the Province."

May 5, 1829

As he withheld assent, Governor Sir James Kempt wrote to the Colonial Secretary, the Rt. Hon. Sir George Murray on May 5, 1829.

"I have the honour herewith to transmit to you a certified copy of a Bill which passed the Legislative Council and Assembly of the Province in the last Session of the Provincial Parliament, but which I have felt it my duty to reserve for the signification of His Majesty's pleasure, for the reasons stated in the accompanying Report of the Attorney-general, to whom it was referred.

"The Bill is intituled, 'An Act to extend certain Privileges therein mentioned to Persons professing the Jewish Faith, and for the obviating certain inconveniences to which others of His Majesty's subjects might otherwise be exposed.' But the Attorney-general is of opinion, that the provisions of the same are imperfectly and insufficiently framed, and not such as would be required to answer the purpose intended. He is also of opinion, that it is a Bill which necessarily requires the observance of the formalities required by the 42d section of the Act 31 Geo.3, c.31, by which the present constitution of Lower Canada was established." (Colonial Office Records, Q series, MG 11, vol. 188-2, Pp. 292-93; also in Jewish Disabilities. Return of Copies...1850. P.1)

Enclosed with this dispatch was the opinion of the Attorney-general, J. Stuart, dated Feb. 26, 1829

At this time the Irish Vindicator of Montreal published an article on the front page of its Oct. 13, 1829 issue on "The State of the English Jews." The article surveyed briefly the history of the community and proceeded to deal with their legal status, particularly with the satisfactory resolution of the matter of the wording of the oath.

For a year no action was taken by either House.

Nov. 13, 1829

The London government received an opinion on the "Case with reference to a Bill reserved by the Governor of Lower Canada, for the signification of His Majesty's pleasure extending certain privileges to persons possessing the Jewish Faith.

"We are of opinion that this case does not come within the terms of the Act of the 31. Geo. 3. C.31.

"It does not affect, or relate to the exercise or enjoyment of any form or mode of religious Worship, nor impose any penalty in respect of the same. The registration of Births, Burials and Marriages is not necessarily connected with any form of religious worship but is more matter of Civil regulation; the enforcement of which, by penalties does not seem to interfere with the exercise or enjoyment of any sort of religion or worship. Upon these grounds we are humbly of opinion that there is no sufficient reason assigned why this Bill should be disallowed by His Majesty."

The opinion was signed by Herbert Kenner, J. Scarlett and Edward M. Sugden on Nov.13, 1829. (MG 11, Q series, vol. 191, Pt.1)

For a year or so no action was taken.

Jan. 26, 1830

On Jan. 26, 1830 the Assembly, "Ordered, That Mr. Solicitor General have leave to bring in a Bill to extend certain privileges therein mentioned to persons professing the Jewish Religion, and for the obviating certain inconveniences to which others of His Majesty's subjects might otherwise be exposed.

"He accordingly presented the said Bill, and the same was read the first time; and ordered to be read a second time tomorrow."

It was a slightly amended version of the older bill; paragraph 7 had been added. (Also in Montreal Gazette of Feb. 1, 1830)

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Three days earlier, on Jan. 23, 1830, it had been ordered in the Legislative Assembly that "Mr. Neilson have leave to bring in a Bill for the relief of certain Religious Congregations therein mentioned.

"He accordingly presented the said Bill, and the same was read the first time; and ordered to be read a second time on Tuesday next."

So the same day that the Solicitor General brought in the renewed bill for the relief of the Jewish residents, on Jan. 26, "A Bill for the relief of certain Religious Congregations therein mentioned, was, according to order, read a second time.

"Ordered, That the said Bill be now referred to a Committee of the whole House.

"The House accordingly resolved itself into the said Committee.

"Mr. Quirouet took the Chair of the Committee; and after some time spent therein,

"Mr. Speaker resumed the Chair;

"And Mr. Quirouet reported that the Committee had gone through the Bill, and had made several amendments thereto, which he was directed to report to the House, whenever it shall be pleased to receive the same.

"Ordered, That the Report be received tomorrow."

The following day "Mr. Quirouet, from the Committee of the whole House on the Bill for the relief of certain Religious Congregations therein mentioned, reported, according to order, the amendments made by the Committee to the said Bill; which amendments were again read at the Clerk's Table, and agreed to by the House.

"Ordered, That the said Bill, as amended, be engrossed."

Jan. 27, 1830

The same Jan. 27 "A Bill to extend certain privileges therein mentioned to persons professing the Jewish Religion, and for the obviating certain inconveniences to which others of His Majesty's subjects might otherwise be exposed, was according to order, read a second time.

The following day "A Bill to extend certain privileges therein mentioned to persons professing the Jewish Religion, and for the obviating certain inconveniences to which others of His Majesty's subjects might otherwise be exposed, was according to order, read a second time.

"Ordered, That the said Bill be now referred to a Committee of the whole House.

"The House accordingly resolved itself into the said Committee.

"Mr. Blanchet, took the Chair of the Committee; and after some time spent therein,

"Mr. Speaker resumed the Chair;

"And Mr. Blanchet reported that the Committee had gone through the Bill without making any amendment thereto, which he was directed to report to the House whenever it shall be pleased to receive the same.

"Ordered, That the Report be received on Friday next."

Feb. 10, 1830

On Feb. 10, the Assembly "Ordered, That the Order of the day of the twenty-ninth January last, for receiving the Report of the Committee of the whole House on the Bill to extend certain privileges therein mentioned, to persons professing the Jewish Religion, and for obviating certain inconveniences to which others of His Majesty's Subjects might otherwise be exposed, lost by the adjournment of this committee on that day, be revived; and that the said Report be now received.

"Accordingly Mr. Blanchet, from the said Committee, reported that the Committee had gone through the Bill without making any amendment thereto; and the Report was again read at the Clerk's Table.

"Ordered, That the said Bill be engrossed." (Also in Irish Vindicator of Feb. 18, and in Montreal Gazette, Feb. 15, 1830)

Feb. 13, 1830

The Journals of the Assembly notes that on Feb. 13, 1830 "An engrossed Bill to extend certain privileges therein mentioned to persons professing the Jewish Religion, and for the obviating certain inconveniences to which others of His Majesty's Subjects might otherwise be exposed, was read for the third time.

"Resolved, That the Bill do pass.

"Ordered, That Mr. Solicitor General do carry the said Bill to the Legislative Council, and desire their concurrence." (Also in Vindicator of Feb. 19, 1830)

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At the same sitting "Mr. Scott, from the Committee of the whole House on the Bill to afford relief to a certain Religious Congregation at Montreal, denominated Presbyterians, reported, according to order, the amendment made by the Committee to the said Bill, which amendment was again read at the Clerk's table, and agreed to by the House.

"Ordered, That the said Bill, as amended, be engrossed."

Feb. 15, 1830

Later, on Feb. 15th, the Legislative Council received a "Message from the Assembly, by the Solicitor General, with a Bill intituled, 'An Act to extend certain privileges therein mentioned to persons professing the Jewish Religion, and for the obviating certain inconveniences to which others of His Majesty's subjects might otherwise be exposed,' to which they desire the concurrence of this House.

"The Bill was read for the first time.

"Ordered, That the said Bill be read for the second time on the next sitting day," which was the morrow, Feb. 16.

Feb. 16, 1830

That day, Feb. 16, the Council "Hodiè 2 â lecta est Billa, intituled, 'An Act to extend certain privileges therein mentioned to persons professing the Jewish Religion and for the obviating certain inconveniences to which others of His Majesty's subjects might be exposed.'

"Ordered, That the said Bill be referred to a Special Committee of three Members, and that the Committee be the Honorable Messrs. Richardson, Caldwell and Felton, to meet and adjourn as they please."

"And inasmuch as the said Bill contains provisions which may be considered in some manner to relate to or affect the civil rights of persons of the Jewish persuasion,

"and it is therefore necessary that the same should, previously to any declaration or signification of His Majesty's assent thereto, be laid before both Houses of the Imperial Parliament, as the manner provided and directed by the 4th section of the Act of the Parliament of Great Britain, passed in the 31st year of His late Majesty's reign, &c. We do, therefore, respectfully pray Your Excellency, that in order to give effect to the said Bill, Your Excellency will cause the same to be transmitted to England without delay, for the purpose of being laid before both Houses of the Imperial Parliament, previous to the signification of His Majesty's assent thereto." (Jewish Disabilities, P. 7)

Feb. 19, 1830

The following day the Council heard "Honorable Mr. Felton, from the Special Committee to which had been referred the Bill intituled 'An Act to extend certain privileges therein mentioned, to persons professing the Jewish Religion, and for the obviating certain inconveniences to which others of His Majesty's subjects might be otherwise exposed,' reported, That they had read through the said Bill, and had directed him to report it without any amendment.'"

March 2, 1830

On March 2, 1830, the Legislative Council sent a message to the Governor, over the signature of the Speaker.

"We, His Majesty's dutiful and loyal subjects, the Legislative Council of the Province of Lower Canada, in Provincial Parliament assembled, respectfully represent to Your Excellency that we have, during the present session of the Provincial Parliament, passed a Bill of the highest importance to a great portion of His Majesty's subjects in this colony, which we herewith submit to Your Excellency, and which is intituled, 'An Act to extend certain Privileges therein mentioned to Persons professing the Jewish Religion, and for obviating certain inconveniences to which others of His Majesty's subjects might otherwise be exposed.'

"And inasmuch as the said Bill contains provisions which may be considered in some manner to relate to or affect the civil rights of persons of the Jewish persuasion,

"And it is therefore necessary that the same should, previously to any declaration or signification of His Majesty's assent thereto, be laid before both Houses of the Imperial Parliament, in the manner provided and required by the 42d section of the Act of the Parliament of Great Britain, passed in the 31st year of His late Majesty's reign, c.31: We do, therefore, respectfully pray Your Excellency, that in order to give effect to the said Bill, Your Excellency will cause the same to be transmitted to England without delay, for the purpose of being laid before both Houses of the Imperial Parliament, previous to the signification of His Majesty's assent thereto."  
(Jewish Disabilities, P. 7)

March 5, 1830

But the Council still had reservations about the Jews bill and on March 5 moved that "the Bill intituled, 'An Act to extend certain privileges therein mentioned, to persons professing the Jewish faith, and for the obviating certain inconveniences to which others of His Majesty's subjects might otherwise be exposed,' be referred de novo to the same Committee, to whom it was first referred with an instruction to the said Committee, to insert a Clause in the said Bill for reserving to His Majesty, and to all Seigniors and others, their rights of Indemnity as well as all other rights to which they may by Law be entitled.

"The question of concurrence being put on this motion,

"It was resolved in the affirmative."

March 8, 1830

In the meantime, on March 8, 1830 the Council heard from

"The Honorable Mr. Felton, from the Special Committee to whom had been referred the Bill, intituled, 'An Act to extend certain privileges therein mentioned, to persons professing the Jewish Religion, and for the obviating certain inconveniences to which others of His Majesty's subjects might be otherwise exposed,' reported, 'That they had gone through the said Bill, and made several amendments thereto which he was ready to report whenever the House shall be pleased to receive the same.' and Ordered,

"That the said report be received on the next sitting day."

March 10, 1830

On March 10, 1830, in the Council.

"The Honorable Mr. Felton according to order, reported the amendment made by the Special Committee to whom had been referred the Bill, intituled, 'An Act to extend certain privileges therein mentioned, to persons professing the Jewish Religion, and for the obviating certain inconveniences to which others of His Majesty's subjects might otherwise be exposed.'

"The said amendment being then twice read by the Clerk was agreed to by the House, and is as follows:

"Press 2, line 41. -- After 'Religion,' insert the following Clause marked A.

"Clause A.

"And be it further enacted by the authority aforesaid, that nothing in this Act contained shall weaken, diminish, extinguish or affect, or be construed to weaken, diminish, extinguish or affect in any manner or way whatsoever the rights or privileges of His Majesty, His Heirs or Successors, or of any Seigneur or Seigneurs, or of any person or persons, bodies politic or corporate whatsoever, (save and except such rights as are in this Act expressly altered and affected) but that His Majesty and all and every Seigneur or Seigneurs and other persons, bodies politic and corporate shall have and exercise the same rights, (except as aforesaid) as they and each of them had before the passing of this Act to every effect and purpose whatsoever, in as ample a manner as if this Act had never been passed.'

"Ordered, That the said amendment be engrossed."

March 11, 1830

The following day, on March 11, 1830, the bill was read for the third time. "The question was put. That this Bill shall pass? It was resolved in the affirmative.

"Ordered, That one of the Masters in Chancery do go down to the Assembly and acquaint that House, that the Legislative Council have passed this Bill with one amendment to which they desire the concurrence of the Assembly."

The Hon. Mr. De Léry, one of the Masters in Chancery, delivered a message to the Speaker of the Assembly from the Council on March 12, 1830 to the effect that the Council had passed the Bill "with an amendment to which they desire the concurrence of the Assembly. And then he withdrew..." (Also in Montreal Gazette, March 18, 1830)

"Ordered, That the Amendment made by the Legislative Council to the Bill, intituled, 'An Act to extend certain privileges therein mentioned to persons professing the Jewish Religion, and for obviating certain inconveniences to which others of His Majesty's subjects might otherwise be exposed,' be now taken into consideration.

"The House proceeded accordingly to take the said Amendment into consideration.

"And the said Amendment was read as followeth: Press 2nd, Line 41st. -- After 'Religion' insert the following Clause marked A.

"Clause A

"And be it further enacted by the authority aforesaid, that nothing in this Act contained, shall weaken, diminish, extinguish or affect or be construed to weaken, diminish, extinguish or effect in any manner or way whatsoever, the rights or privileges of His Majesty, His Heirs or Successors, or of any Seigneur or Seigneurs, or of any Person or Persons, Body Politic or Corporate what-

soever, (save and except such rights as are in this Act expressly altered and affected,) but that His Majesty and all and every Seigneur or Seigneurs, and other persons, bodies politic and corporate shall have and exercise the same rights (except as aforesaid) as they and each of them had before the passing of this Act, to every effect and purpose whatsoever, in as ample a manner as if this Act had never been passed.'

"And the said Amendment being again read, it was agreed to by the House.

"Ordered, That Mr. Solicitor General do carry back the said Bill to the Legislative Council, and acquaint their Honors that this House hath agreed to their Amendment."

March 12, 1830

The Legislative Assembly on March 12, 1830 received a Message from the Legislative Council by the Hon. Mr. De Léry, one of the Masters in Chancery, to the effect that "The Legislative Council have passed the Bill, intituled, 'An Act to extend certain privileges therein mentioned to persons professing the Jewish Religion, and for the obviating certain inconveniences to which others of His Majesty's Subjects might otherwise be exposed,' with an Amendment, to which they desire the concurrence of the Assembly.

"And then he withdrew."

Immediately the Assembly "Ordered, That the Amendment made by the Legislative Council to the Bill, intituled, 'An Act to extend certain privileges therein mentioned to persons professing the Jewish Religion, and for obviating certain inconveniences to which others of His Majesty's subjects might otherwise be exposed,' be now taken into consideration.

"The House proceeded accordingly to take the said Amendment into consideration.

"And the said Amendment was read as followeth:

"Press 2nd, Line 41st. - After 'Religion' insert the following Clause marked A.

"Clause A.

"And be it further enacted by the authority aforesaid that nothing in this Act contained, shall weaken diminish, extinguish or effect or be construed to weaken, diminish, extinguish or effect in any manner or way whatsoever the rights or privileges of His Majesty, His Heirs or Successors, or of any Seigneur or Seigneurs, or of any Person or Persons, Body Politic or Corporate whatsoever, (save and except such rights as are in this Act expressly altered and affected,) but that His Majesty and all and every Seigneur or Seigneurs, and other persons, bodies politic and corporate shall have and exercise the same rights (except as aforesaid) as they and each of them had before the passing of this Act, to every effect and purpose whatsoever, in as ample a manner as if this Act had never been passed.'

"And the said Amendment being again read, it was agreed to by the House.

"Ordered, That Mr. Solicitor General do carry back the said Bill to the Legislative Council, and acquaint their Honors that this House hath agreed to their Amendment."

March 13, 1830

The following day, on the 13th, the Solicitor General did indeed report to the Council from the Assembly "That they have agreed to the amendment made by this House without any amendment."

But the Council moved to another delay. It was moved that a

"Committee of three Members be appointed to prepare and report a joint Address to His Excellency the Administrator of the Government, respectfully to pray, that His Excellency will cause to be transmitted to England without delay a Bill passed by both Houses of the Provincial Parliament during the present Session, intituled, 'An Act to extend certain privileges therein mentioned to persons professing the Jewish Religion, and for obviating certain Inconveniences to which others of His Majesty's subjects might otherwise be exposed,' for the purpose of being laid before both Houses of the Imperial Parliament previous to signification of the King's Assent thereto.

"Accordingly,

"That the Committee be the Honorable Messrs. Cuthbert, Guky and Felton to meet and adjourn as they please."

The Hon. James Cuthbert was one of the senior parliamentarians in the colony, having sat in the Assembly for Warwick from July 20, 1796 to December 18, 1811, when he was named to the Legislative Council. He sat on that body until March 27, 1838.

On April 2, 1838 he was named to the Special Council appointed to act during the suspension of the constitution and was the first chairman, until June 1, 1838. He retained his seat until its end, on February 10, 1841. At its historic session of November 13, 1838 he opposed the proposal for the union of the Canadas, as did Quesnel. He passed away on March 4, 1849. (Canadian Jewish Archives, new series, no. 18)

Hon. Louis Guky had represented St. Maurice in the Assembly from April 25, 1816 to April 10, 1818, when he was elevated to the Legislative Council. He sat there until March 27, 1838. Mr. Guky died on July 17, 1840.

March 16, 1830

On the 16th of March in Council,

"The Honorable Mr. Cuthbert, from the Special Committee appointed to prepare and report a joint Address to His Excellency the Administrator of the Government, humbly to pray, that His Excellency will cause to be transmitted to England without delay a Bill passed during the present Session by both Houses of the Provincial Legislature, intituled, 'An Act to extend certain privileges therein mentioned to persons professing the Jewish Religion, and for obviating certain inconveniences to which others of His Majesty's subjects might otherwise be exposed, for the purpose of being laid before both Houses of the Imperial Parliament previous to the signification of the King's assent thereto; reported from the said Committee an Address, which being read by the Clerk was agreed to by the House,' and is as follows:

"To His Excellency

Sir James Kempt,

"Knight, Grand Cross of the Most Honorable Military Order of the Bath, Lieutenant-General and Commander of all His Majesty's Forces in the Provinces of Lower-Canada and Upper-Canada, Nova-Scotia, New-Brunswick and their several Dependencies, and in the Island of Newfoundland, and Administrator of the said Province of Lower-Canada.

"May it Please Your Excellency,

"We His Majesty's dutiful and loyal Subjects, the Legislative Council of the Province of Lower-Canada, in Provincial Parliament assembled, respectfully represent to Your Excellency, that we have during the present Session of the Provincial Parliament, passed a Bill of the highest importance to a great portion of His Majesty's Subjects in this Colony, which we herewith submit to your Excellency, and which is intituled, 'An Act to extend certain privileges therein mentioned, to persons professing the Jewish Religion, and for the obviating certain inconveniences to which others of His Majesty's Subjects might otherwise be exposed,' and inasmuch

as the said Bill contains provisions which may be considered in some manner to relate to or affect the civil rights of persons of the Jewish Persuasion, and it is, therefore, necessary that the same should, previous to any declaration or signification of His Majesty's Assent thereto, be laid before both Houses of the Imperial Parliament, in the manner provided and required by the 42nd Section of the Act of the Parliament of Great Britain, passed in the 31st year of His late Majesty's Reign, chap. 31. We do therefore, respectfully pray Your Excellency that in order to give effect to the said Bill, Your Excellency will cause the same to be transmitted to England without delay, for the purpose of being laid before both Houses of the Imperial Parliament previous to the signification of His Majesty's Assent thereto.

"By order,

J. Sewell,  
Speaker of the Legislative Council.

"Ordered, That the said Address be engrossed."



March 17, 1830

The following day, on March 17, in Council,

"It was moved to resolve.

"That the Speaker do sign on the behalf of this House the engrossed Addresses of this House to His Excellency the Administrator of the Government, praying His Excellency to transmit to England copies of the Bills severally intituled, 'An Act to extend certain privileges therein mentioned to persons professing the Jewish Religion, and for the obviating certain inconveniences to which others of His Majesty's subjects might otherwise be exposed, and an Act for the relief of certain Religious Congregations therein mentioned,' for the purpose of being laid before both Houses of the Imperial Parliament, and that one of the Masters in Chancery do carry the said engrossed Addresses to the Assembly, to desire their concurrence to the same, and that they be signed on their behalf.

"The question of concurrence being put on this motion,

"It was resolved in the affirmative."



March 18, 1830

The Assembly received through the Master in Chancery on March 18th the message from the Council just cited.

And then the Master in Chancery withdrew.

"The Master in Chancery was then called in, and informed by Mr. Speaker, that this House will send an answer by Message."

The same day, after opening prayers at the Council session,

"Mr. De Léry, one of the Masters in Chancery reported, 'That in pursuance of the order of the House of yesterday, he carried to the Assembly the two engrossed Addresses of the House to His Excellency the Administrator of the Government, praying His Excellency to transmit to England copies of the Bills severally intituled, 'An Act to extend certain privileges therein mentioned to persons professing the Jewish Religion, and for the obviating certain inconveniences to which others of His Majesty's subjects might otherwise be exposed,' and 'An Act for the relief of certain Religious Congregations therein mentioned,' for the purpose of being laid before both Houses of the Imperial Parliament, to desire their concurrence thereto, and that they be signed on their behalf, and that he received for answer that to this Message of the Legislative Council the House of Assembly will answer by a Message of their own."

March 19, 1830

On the 19th of March the Assembly resolved itself "into a Committee of the whole House on the Message and engrossed Addresses received yesterday, from the Legislative Council, relating to the Bills severally intituled, 'An Act to extend certain privileges therein mentioned to persons professing the Jewish Religion, and for the obviating certain inconveniences to which others of His Majesty's subjects may otherwise be exposed,' and 'An Act for the relief of certain Religious Congregations therein mentioned.' The said Addresses were read, and are as followeth:

"To His Excellency,

"Sir James Kempt, Knight Grand Cross of the Most Honorable Military Order of the Bath, Lieutenant General and Commander of all His Majesty's Forces in the Provinces of Lower-Canada and Upper-Canada, Nova-Scotia, New-Brunswick, and their several Dependencies, and in the Island of Newfoundland, and Administrator of the Government of the said Province of Lower-Canada.

"May it please Your Excellency,

"We, His Majesty's dutiful and loyal subjects, the Legislative Council of the Province of Lower-Canada, in Provincial Parliament assembled, respectfully represent to Your Excellency, that we have during this present Session of the Provincial Parliament passed a Bill of the highest importance to a great portion of His Majesty's subjects in this Colony, which we herewith submit to Your Excellency, and which is intituled, 'An Act to extend certain privileges therein mentioned to persons professing the Jewish Religion, and for obviating certain inconveniences to which others of His Majesty's Subjects might otherwise be exposed.' And inasmuch as the said Bill contains provisions which may be considered in some manner to relate to or affect the civil rights of persons of the Jewish Religion; and it is therefore necessary that the same should, previous to any declaration or signification of His Majesty's Assent thereto, be laid before both Houses of the Imperial Parliament in the manner provided and required by the forty-second Section of the Act of the Parliament of Great Britain, passed in the thirty-first year of His late Majesty's Reign, chapter thirty-one: We do therefore respectively pray Your Excellency will cause the same to be transmitted to England, without delay, for the purpose of being laid before both Houses of the Imperial Parliament previous to the signification of His Majesty's Assent thereto.

"By order, J. Sewell, Speaker of the Legislative Council.  
Legislative Council, Quebec, 17th March 1830."

"The House then resolved itself into the said Committee.

"Mr. Cannon took the Chair of the Committee; and after some time spent therein,

"Mr. Speaker resumed the Chair;

"And Mr. Cannon reported that the Committee had come to several Resolutions, which Resolutions were again read at the Clerk's Table, and agreed to by the House, and are as followeth:

"1. Resolved, That His Majesty's subjects in this Province have a right to the free exercise of their Religion; and that the Bills referred to in the Message from the Legislative Council, delivered yesterday, do not contain any provision which in any manner relates to or affects the enjoyment or exercise of any religious form or mode of worship, and are not within the cases reserved in the forty-second Clause of the Act of the Parliament of Great Britain, Thirty-first George the Third, chapter thirty-one.

"2. Resolved, That this House doth not concur in the Address received from the Legislative Council yesterday, to His Excellency the Administrator of the Government, to transmit to England, to be laid before Parliament, the Bill, intituled, 'An Act to extend certain privileges therein mentioned to persons professing the Jewish Religion, and for the obviating certain inconveniences to which others of His Majesty's subjects may otherwise be exposed.'

"3. Resolved, That this House doth not concur in the Address received from the Legislative Council yesterday, to His Excellency the Administrator of the Government, to transmit to England, to be laid before Parliament, the Bill, intituled, 'An Act for the relief of certain Religious Congregations therein mentioned.'

"Ordered, That a Message be sent to the Legislative Council, to communicate the said Resolutions and return the said Addresses.

"Ordered, That Mr. Neilson do carry the said Message to the Legislative Council." (Jewish Disabilities, Pp.7-8)

Pagnuelo notes that with this refusal by the Assembly to have their bill referred to the British Parliament, "all resistance ceased, and the various Protestant denominations had but to ask for the right to keep registers to obtain such rights." (P. 171) Nearly, but not quite.

March 23, 1830

On March 23, the Council received a Message from the Assembly by Mr. Neilson, with the text of the Assembly just cited.

March 25, 1830

The bill was slightly amended in the course of its passage, and the governor again sought legal advice from his attorney general. Mr. Stuart again wrote the civil secretary on March 25, 1830:

"In obedience to the Commands of His Excellency the Administrator of the Government, with which I have been honored, I have perused a Bill passed by the Legislative Council and Assembly of this Province, intituled, 'An Act to extend certain privileges therein mentioned to persons professing the Jewish Religion, and for the obviating certain inconveniences to which others of His Majesty's subjects might otherwise be exposed;' -- And am humbly of opinion that this Bill ought to be reserved for the signification of His Majesty's Pleasure respecting the same. The grounds of this opinion I beg leave to state are the same as those contained in a report which I had the honor of submitting through you to His Excellency on a similar bill in the Month of February of the last year." (MG 11, Q series, vol.194, Pt.1. Jewish Disabilities, P. 7)

March 26, 1830

The Council insisted on its view that the Bill be laid before the British Parliament, and at the opening of its session of March 26,

"It was moved,

"That the two Addresses of this House, to His Excellency the Administrator of the Government of the 16th instant, praying that His Excellency will transmit to England copies of the Bills severally, intituled, 'An Act to extend certain privileges therein mentioned, to persons professing the Jewish Religion, and for the obviating certain inconveniences to which others of His Majesty's subjects might otherwise be exposed,' and 'An Act for the relief of certain Religious Congregations therein mentioned,' for the purpose of being laid before both Houses of the Imperial Parliament, be now presented to His Excellency the Administrator of the Government.

"Ordered, Accordingly.

"Ordered, That the Honorable Messrs. Caldwell and Felton do wait on His Excellency the Administrator of the Government with the said Addresses.

"The Honorable Mr. Caldwell reported, 'That the Honorable Mr. Felton and himself had according to order, waited on His Excellency the Administrator of the Government with the two Addresses of this House, to which His Excellency had been pleased to say that he would comply with the wishes of the House.'

The Hon. John Caldwell had sat in the Assembly from April 21, 1810 to December 15, 1811 for Dorchester when he was raised to the Legislative Council. He was speaker of the Council from November 15, 1831 to February 20, 1835. Caldwell continued on the Council until March 27, 1838. He passed away on October 26, 1848.

The Hon. Matthew Bell entered the Assembly on July 28, 1800 as representative for St. Maurice, and sat there until June 13, 1804. He returned to the Assembly on November 23, 1809 taking the seat for Trois-Rivières previously held by Ezekiel Hart, and remained there until March 22, 1814.

He was named to the Legislative Council on April 23, 1823 and occupied his seat until March 27, 1838. He died on June 24, 1849.

The same day, the Governor informed the Council and the Assembly that he was reserving the Bill for the signification of His Majesty's pleasure thereon.

## THE ESTABLISHING ACT

The full text of the law is a fundamental document of Canadian Jewry. As it appears in the text ordered printed by the House of Commons in London in 1850, it reads: "An Act to extend certain Privileges therein mentioned to Persons professing the Jewish Religion and for the obviating certain inconveniences to which others of His Majesty's subjects might otherwise be exposed.

"Whereas serious inconveniences are experienced by persons professing the Jewish Religion, being British Subjects resident in this Province, from their disability under the existing Laws to have and keep authentic Registers of the Births, Marriages and Burials occurring among them, which disability may injuriously affect the interests of others of His Majesty's Subjects throughout the Province and particularly those of such persons as may derive their Titles to real property from persons so professing the Jewish Religion, And whereas it is expedient that there should be in each of the Districts of this Province fit and proper places of Worship and of Burials for the use of such persons: Be it therefore enacted by the King's Most Excellent Majesty, and with the advice and consent of the Legislative Council and Assembly of the Province of Lower Canada constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain intituled An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign intituled An Act for making more official provision for the Government of the Province of Quebec in North America and to make further provision for the Government of the said Province, And it is hereby enacted by the authority of the same that the Prothonotaries of the Courts of King's Bench for the Districts of Quebec, Montreal and Three Rivers respectively shall, immediately after the passing of this Act, open and keep in each of the said Districts a Register to remain of record, wherein any person residing in the District in which such register shall be kept, being a British Subject professing the Jewish Religion, and above the age of twenty-one years, may inscribe his name, age, addition and place of residence, after Oath by him made before the said Prothonotaries or any of them, that he believes himself to be of the full age of twenty-one years and that he is a British Subject, professing the Jewish Faith.

"And be it further enacted by the authority aforesaid that, when and so soon as fifteen persons shall have been so enregistered, it shall and may be lawful for any Justice of the Court of King's Bench or Judge of the Provincial Court as the case may be, upon petition to that effect to him made by seven persons so enregistered in his district, and such Justice is hereby required upon such petition to convene a public meeting of all persons so enregistered within his District, to be held in the Chief City or Town thereof and at such place therein and at such time as the said Justice shall deem it advisable to appoint and to name some Justice of the Peace for the said District to preside at such meeting and to make his return of the proceeding thereat to the Prothonotary of the Court of King's Bench for the said District or Prothonotary of such Provincial Court as the case may be: Provided always that the day on which such meeting shall be held shall not be more than sixty nor less than thirty days after the time at which the said petition shall have been presented; and that due notice of such meeting shall be given by inserting such notice during two weeks in such public newspapers as the said Justices may approve or, if no newspaper be published in his District in such manner as the said Justices shall order.

"And be it further enacted by the authority aforesaid that at such meeting it shall be lawful for the persons so enregistered in the District in which such meeting shall be held and then and there present, 1 o'clock by a Majority of their votes five persons from among such persons as shall have been so enregistered in the same District as themselves, to be Trustees for the purposes hereinafter mentioned, which persons shall be returned as such Trustees by the Justices of the Peace presiding at such Meeting in his Official return of the proceedings had at such meeting as before directed.

"And be it further enacted by the authority aforesaid that, when the said number of Trustees shall have been so elected as aforesaid, they shall by a Majority of their votes elect a Chairman from among themselves, and shall in like manner elect a Secretary and Treasurer.

"And be it further enacted by the authority aforesaid that, when and so soon as such election and return shall have been so made, the Prothonotary shall make an entry in the Register by him kept as aforesaid setting forth that such election was made in pursuance of this Act, and the time and place thereof, together with the Names, addition and places of residence of the Trustees so elected, and that when and so often as any of the said Trustees shall die, leave the District or resign such Trust,

the election of so many others as may be required to complete the said number of five shall be proceeded to and recorded in the manner herein before provided, save and except that at such election the Chairman or the oldest of the Trustees shall preside and shall make his return of the proceedings at such election in the manner herein before prescribed, provided that no Trustee shall remain in office longer than five years.

"And be it further enacted by the authority aforesaid, that it shall be lawful for the said Trustees so elected and returned as aforesaid to purchase and hold or to acquire, have and hold by Devise, Donation, or otherwise, for the purposes hereinafter set forth, in any part of the District for which they shall have been so elected and returned, a lot, or lots of ground not exceeding in the whole the quantity of five arpents in superficial content, and to appropriate any part of the said lot or lots as a Burial Ground, and to erect on any part of the same a house for the residence of a Minister of the Jewish Religion.

"And be it further enacted by the authority aforesaid, that from and after the passing of this Act, every minister of the Jewish Religion acting as such within the Province, being previously licensed by the Governor, Lieutenant Governor or Person administering the Government for the time being, shall keep a register in duplicate of all Marriages and Burials performed by him and of all Births which he may be required to record in such Register by any person professing the Jewish Religion, and that all the provisions of a certain Act passed in the thirty-fifth year of the Reign of His late Majesty King George the Third, Chapter four, intituled 'An Act to establish the form of Registers of Baptisms, Marriages and Burials, and to confirm and make valid in law the Register of the Protestant Congregation of Christ Church, Montreal, and others which may have been informally kept, and to afford the means of remedying omissions in former Registers' shall be and the same are hereby extended to all registers hereafter to be kept by virtue of this Act, provided that before any Minister of the Jewish Religion shall be admitted to keep the Register as aforementioned, he shall be required to present a petition to the Governor, Lieutenant Governor or Person administering the Government for the time being, subscribed by the Chairman and Trustees of the District for which he is to Act setting forth his name and addition and praying to be licenced to keep a Register for the District therein mentioned and it shall and may be lawful to send for the Governor, Lieutenant Governor or Person administering the Government for the time being to grant the prayer of the Petition if he shall see fit, and to issue his licence under his hand and seal to the said Petitioner to have and keep Registers for the purposes aforesaid, any Law, usage or Custom to contrary notwithstanding.

"And be it further enacted by the authority aforesaid, that all the provisions of the said last mentioned Act concerning such Registers as may have been informally kept, as well as those concerning the omission of any matter which ought to have been recorded in any such Register as may heretofore have been kept by any Minister of the Jewish Religion officiating in this Province.

"And be it further enacted by the authority aforesaid, that all persons of the Jewish Religion may within three months next after the election of the said Trustees, cause the Birth of their Children or their death to be enregistered with the same effect to all intents and purposes as if the same had been done at their birth, or death.

"And be it further enacted by the authority aforesaid that all Registers, which shall hereafter be kept by any Minister of the Jewish Religion in this Province, according to the provisions of the Act last above mentioned, as well as all certified Copies of the entries made therein or in the Registers kept by any Minister of the said Religion officiating in this Province before the passing of this Act, or any document legally establishing the omission of any entry which ought to have been made in such Registers, shall to all intents and purposes have the same legal effect, as the Register or Extract (excerpt) of any Register kept by any priest or Rector of the Roman Catholic Church, or by any Minister of the Protestant Church in this Province in pursuance of the said last mentioned Act, provided always that the regulations and requirements of the said Act shall in all respects have been compiled with.

"Provided always, and be it further enacted by the authority aforesaid, that all Ministers of the Jewish Religion, obtaining and keeping Registers by virtue hereof, shall be governed by the provisions of the Act last above mentioned, and, that they or any other person who shall in any wise neglect or refuse to comply with the requirements of the said Act, shall be liable to the same pains and penalties as are therein in like cases provided, and that any penalties so incurred shall be recoverable, paid and applied, and accounted for in the same manner as the penalties by the said Act imposed are thereby directed to be recovered, paid, applied and accounted for.

"And be it further enacted by the authority aforesaid, that this shall be deemed and taken to be a public Act, and as such shall be judicially noticed by all Judges, Justices and Courts in the Province, without being specially pleaded."

The Acts and Ordinances of Lower Canada were revised under the superintendance of Commissioners for such a revision. In these Revised Acts and Ordinances of Lower Canada, 1845, the Act appeared under Registers of Marriages, class K; with certain clauses omitted: clause 2, under which meetings may be called in each district for the election of trustees; clause 3, under which five Jews may be elected as trustees; clause 4, providing that they may choose chairmen and secretaries; clause 5, authorizing the prothonotary to register the names of trustees; clause 6, permitting trustees to hold up to five arpents for burial grounds and for a house for the minister.

In reviewing the act when its ink was fresh from royal assent we note some of its clauses as so often happens, had complex consequences which could not have been foreseen.

The congregation was established as the sole Jewish institution in the colony for its group life on the religious (or communal) level. When the pluralism within the community became evident, the clauses in the original chartering act could possibly come to reflect the developments.

The law provided for one congregation in Montreal, the community elected one set of trustees who presumably would administer one synagogue, in this case following the London Sephardic rite.

This was quite satisfactory to the older families who, though of Ashkenazi origin, knew the rite and its New York home from their own or their family experiences.

More than a decade later the whole matter surfaced again when the Commons in London requested the Colonial Office for these documents, and on April 12, 1850, B.Hawes submitted a Return to an Address of the Honourable The House of Commons, dated 22 March 1850; for, Return of Copies of the Acts of the Parliaments of Canada and Jamaica, by which Civil Disabilities of the Jews were removed; and also Copies of the Correspondence between the Secretary of State for the Colonies and the Governors of such Colonies, in reference to the said Acts when the same were assented to. This was ordered by the House of Commons to be printed, 12 April 1850. We find there the documents and correspondence cited on its first twelve pages.

May 12, 1830

Gov. Kempt transmitted the Bill to Sir George Murray, on May 12, 1830.

"I have the honour herewith to transmit to you the certified copy (No. 1) of a Bill passed by the Legislative Council and Assembly of this Province in the last Session, which I have deemed it my duty to reserve for the signification of His Majesty's pleasure respecting the same.

"It is intituled, 'An Act to extend certain Privileges therein mentioned to Persons professing the Jewish Religion,' &c.; and is similar in all respects to a Bill passed by the Legislative Council and House of Assembly in the Session of 1829, a copy of which I had the honour to transmit to you in my despatch of the 5th of May of that year (No. 52), accompanied by a report from the Attorney-general, to whom the Bill was referred, and by whose opinion I was guided in reserving the same.

"It is proper that I should inform you on the present occasion, that the Legislative Council, being of opinion that this Bill required the observance of the formalities required by the 42d. section of the Act of 31 Geo. 3, c. 31, did propose to the House of Assembly to join the Legislative Council in an Address to the Governor (in the manner required by that clause) to pray that the Bill might be transmitted to England for the purpose of being laid before Parliament previous to the signification of His Majesty's Assent thereto.

"To his proposition however, the House of Assembly would not agree, conceiving that the Bill 'did not contain any provision which in any manner relates to or affects the enjoyment or exercise of any religious form or mode of worship, and is not within the cases reserved in the 42d. clause of the Act of the Parliament of Great Britain, 31 Geo. 3, c. 31.' And the House having passed a resolution to that effect, and communicated the same to the Legislative Council, I have the honour herewith to transmit a copy of the same (No. 4), for your information.

"I also transmit the copy (No. 2), of an address presented to me by the Legislative Council in respect to this Bill, together with a copy (No. 3), of the Attorney-general's report on the same; and as the Legislative Council and His Majesty's Principal Law Officer in the colony conceive it to be an Act which ought to be laid before both Houses of Parliament in Great Britain before it can be assented to by His Majesty, agreeably to the clause of the before-mentioned statute, while the House of Assembly entertains a different opinion, I may be permitted to express a hope that His Majesty's Government will be pleased to take the subject into consideration, and that I may have the honour of receiving from you a signification of His Majesty's pleasure on this Bill before the next meeting of the Provincial Parliament." (Colonial Office Records, Q series, MG 11, vol. 194, - 1, Pp. 197-200; also in Jewish Disabilities, P.4)

Oct. 30, 1830

London gave very careful consideration to the reservations of the Colonial law officer. The Secretary, Sir George Murray wrote to Aylmer on Oct. 10, 1830 that he has "had under consideration" the Act which has "been reserved by your predecessor for the signification of His Majesty's pleasure thereon. The objections which have been urged by the Attorney-general of the province to the allowance... are far from being unimportant, and there are also other arguments which might be adduced in addition to those which he has stated, and upon which I shall take another opportunity of communicating with Your Lordship. Under all circumstances, however, I do not wish to anticipate that this Act will be disallowed, and I advert to them now, in order that Your Lordship may be informed of these being my sentiments with respect to the course which in all probability will be adopted, and that you may thus be enabled to allay any anxiety with regard to their fate, which may arise before you shall have been furnished with the decision of His Majesty in Council upon them." (G.21: Noted in Report of the Public Archives for 1930, Ottawa, P.174)

Nov. 3, 1830

On Nov. 3, 1830 the Secretary wrote Aylmer,

"I have the honour herewith to transmit to you an Order of His Majesty in Council, dated the 1st instant, confirming and finally enacting three Bills (No. 603, 606 and 607) passed by the Legislative Council and Assembly of Lower Canada in the month of March 1829, and reserved for the signification of His Majesty's pleasure. For the titles of these Bills I refer Your Lordship to the Order itself.

"The Bill for the relief of persons professing the Jewish faith has received His Majesty's Assent, because, although that class of persons is probably not numerous in the province, there is no sufficient reason why their religious opinions should deprive them of any convenience which they can enjoy without detriment to the other inhabitants of Lower Canada.

"His Majesty's Advocate, and the Attorney and the Solicitor-general, have reported to me their joint opinion, that it is not necessary that this Act should be laid before Parliament before the Royal Assent can be given." (G21, Report of the Public Archives for 1930. Ottawa, P. 175)

Jan. 18, 1831

The measure was laid before His Majesty William IV on Nov. 1, 1830 and was confirmed. The proclamation of this assent, made public by Lord Aylmer in Quebec took place on Jan. 18, 1831.

After the long and uncertain legislative process, the Bill "to extend certain privileges therein mentioned to persons professing the Jewish religion" became law by the proclamation. This is so fundamental a development that it is worth reading in full.

"Province of Lower Canada

AYLMER

"His Excellency Matthew Lord Aylmer, Knight Commander of the Most Honorable Military Order of the Bath, Lieutenant General and Commander of all His Majesty's Forces in the Provinces of Lower Canada and Upper Canada, &c. &c. and Administrator of the Government of the said Province of Lower Canada.

"A PROCLAMATION

"Whereas in the Session of the Provincial Parliament of Lower Canada, held in the ninth year of the Reign of His late Majesty King George the Fourth, and in the year of our Lord One thousand eight hundred and twenty-nine, a certain Bill, intituled, 'An Act to extend certain privileges therein mentioned to persons professing the Jewish Religion, and for the obviating certain inconveniences to which others of His Majesty's subjects might otherwise be exposed,' was passed by the Legislative Council and the House of Assembly of this Province: And whereas the said Bill in the same Session thereof, on the fourteenth day of March, in the year aforesaid, was presented to His Excellency Sir James Kempt, then being the Person administering His Majesty's Government within this Province, for His Majesty's Assent, and was then by the said Sir James Kempt, being the Person Administering the said Government as aforesaid, reserved for the signification of His Majesty's pleasure thereon. And whereas the said Bill hath been laid before His present Majesty our Sovereign Lord King William the Fourth, in Council, and His said present Majesty, by and with the advice of His Council, on the first day of November now last past, was pleased to assent to the said Bill, and, pursuant to His said present Majesty's pleasure in this behalf, the said Bill was then confirmed,

ratified, and finally enacted. Therefore, in pursuance of the Statute in such case made and provided, by this Proclamation, I do signify, publish and make known, that the said Bill hath been, as aforesaid, laid before His said present Majesty in Council, and that His said present Majesty hath been pleased to assent to the same. And of the premises I do hereby, in His said present Majesty's name, require and command all Judges, Justices, Officers and Ministers of Justice, and other of His Majesty's loving subjects, and all persons whomsoever whom the same may concern, to take notice and govern themselves accordingly.

"Given under my Hand and Seal at Arms, at the Castle of Saint Lewis, in the City of Quebec, in the said Province, the eighteenth day of January, in the year of our Lord One thousand eight hundred and thirty-one; and in the First year of His Majesty's Reign.

"By His Excellency's Command, D. Daly,  
Secy. of the Province."

At the same time, and in the same terms, Governor Lord Aylmer proclaimed royal assent to the Act to extend certain privileges therein mentioned to the Religious Class of persons denominating themselves Wesleyan Methodists.

The Montreal Gazette, in one of its rare editorial comments, notes that the act for the relief of Jews has received the necessary sanction and is now in force.

"It was introduced by the Solicitor General and its object is to grant, to those who profess the Jewish religion, rights to which they are entitled and of which they have been too long deprived. It regulates in what manner they are to hold lots on which they may erect their places of worship, or establish cemeteries, and yields to them registers for the entries of the births, marriages and deaths that may take place within their religious community." (Jan. 28, 1831)

It appears from this notice that the parallel bill for the Wesleyan Methodists had had harder sleighing, particularly as a result of the sectarian hostility of the Chief Justice.

Forthcoming Event

This bill is intituled Chap. 75 of the statutes of 9 Geo. IV., but it does not appear in its place in the printed Statutes of Lower Canada. (vol. 13) It is supposed to appear, together with a similar act to extend privileges to the Wesleyan Methodists at the commencement of vol. 14, but in most copies of the statutes it does not appear at all.

Significantly, within a fortnight of this proclamation of assent, on Jan. 31, 1831, "divers persons professing the Jewish Religion whose names are hereunto subscribed" began to move for the enactment of further -- indeed, full -- rights for the Jews of Lower Canada.

But this is another, and major, story all its own.

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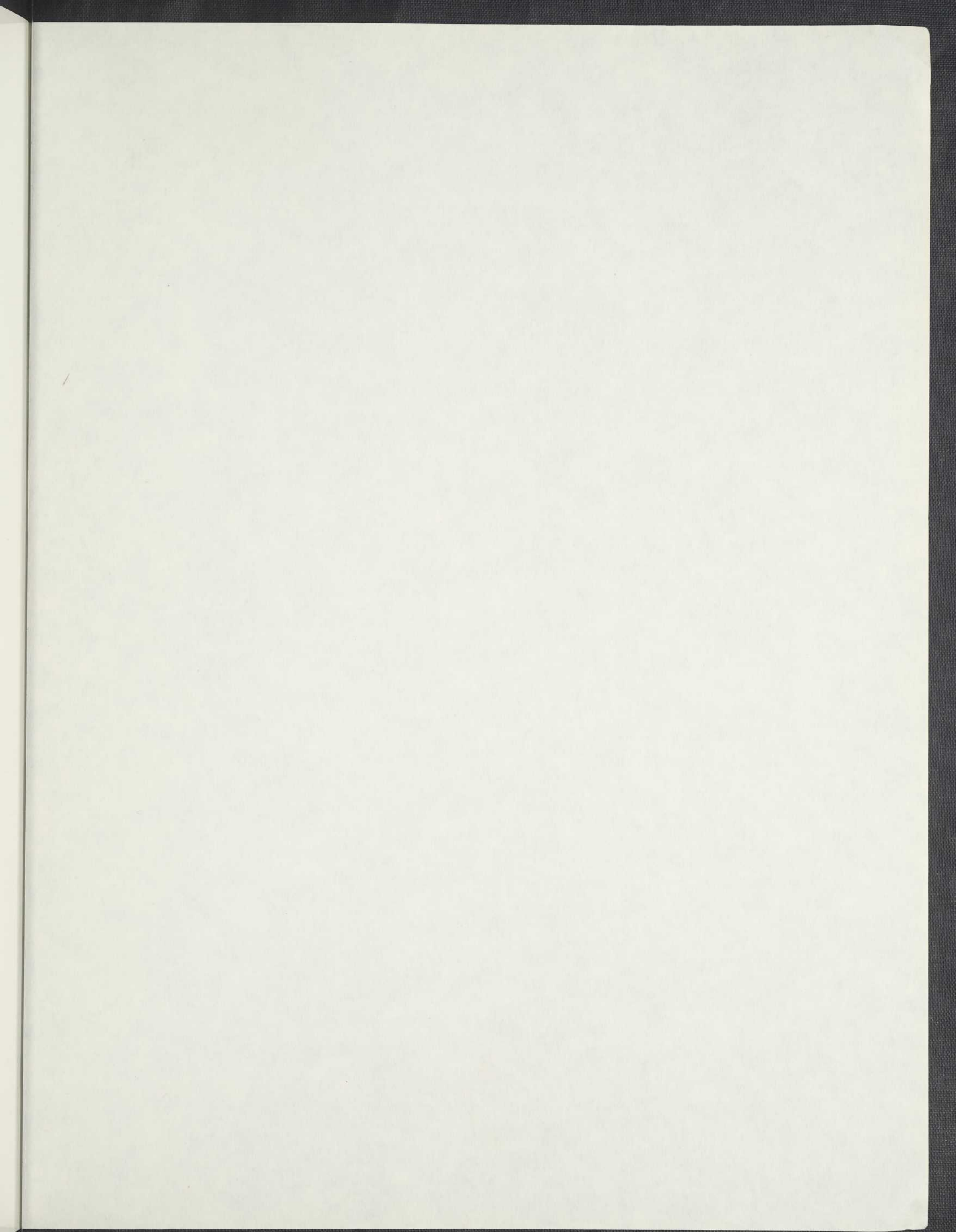
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