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CANADIAN JEWISH ARCHIVES

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.

Nous nous souvenons

NEW SERIES
NUMBER TWENTY

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

ON THE EARLY HARTS - THEIR CONTEMPORARIES

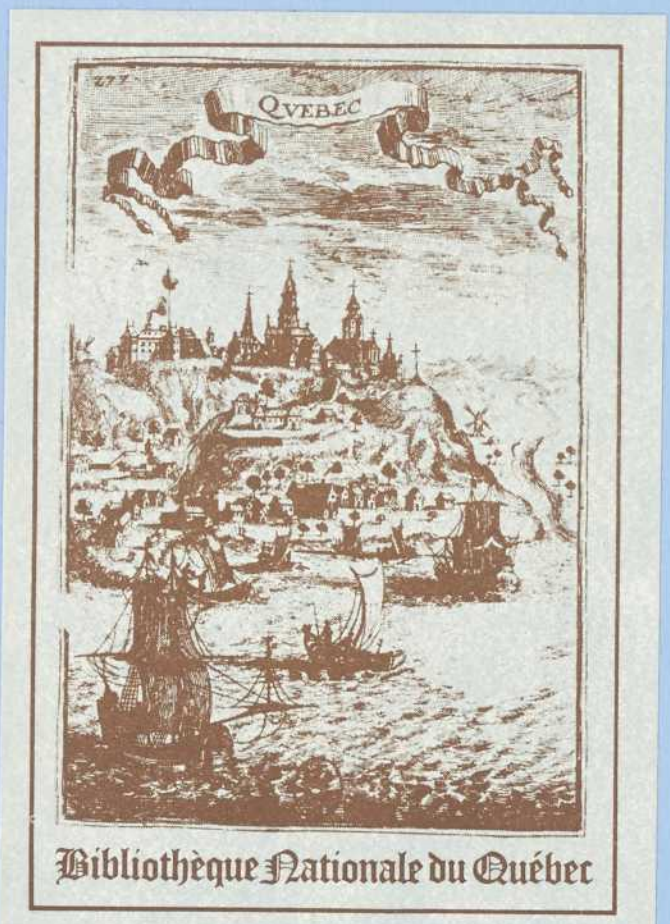
PART 2

Compiled by
DAVID ROME

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THE JUDAHS

In many senses the Judah family is one of the most interesting of the Jewish pioneer families, especially in terms of continuity.

Yet it is very difficult to fit it into the annals of the community.

The family reflects in its Canadian beginnings the motives and the activities of its several kin neighbours. But early on it is strongly attracted to the assimilative powers of French Canada and, branch after branch, falls away from the Jewish family tree. From the viewpoint of Canadian history it becomes ever more interesting as it enters into the heart of Quebec intimacy -- English and French.

The Jewish historians cannot simply walk away from the phenomenon which Vaugeois notes in his examination of trifluvien society, "where many jealously hide the secret of their origins and of their relative prosperity, while some are quite ignorant of it. Aaron Hart could not foresee this curious turn of history which turned the defeat of 1760 to become the slow assimilator. The Harts of the Three Rivers area share the fate of the Burns, the Johnsons and the Ryans. Together with 'the old Canadians' they also become the ancestors of the Quebecois of today." ("Aaron Hart", in Dictionary of Canadian Biography)

This was to be the fate of this Jewish family.

As we follow its progress, we find ourselves in revolutionary and stormy Canadian times -- in the divisions of 1837, their conflicts in battle, in courts martial and in the biographies of great Canadian prophets. Regardless of our sympathies and identifications we cannot turn our eyes from the fascinating events.

The brothers Uriah, Isaac, Abraham and Samuel Judah brothers-in-law of Aaron Hart, husband of their sister Dorothy, must have been among the senior men of the community. Brother Baruch remained in the United States.

Some readers of American history have seen connections of the Judahs with New York as far back as 1698.

From information preserved by the Judahs, and in various archives, the strain goes back to a silversmith family in Portugal which, after the expulsion of 1494, moved to Holland and thence to England and Germany.

Early in the 18th century a Judah girl married Ezekiel Hart and their son Aaron Uri (b. London, 1724; died Three Rivers, 1800) became the patriarch of early Canadian Jewry.

Her brother, Abraham Judah of Breslau, a manufacturer of painters' materials, was the father of several children who interest us.

For one, his daughter Dorothy Catherine married her cousin Aaron Hart and came to live at Three Rivers.

Her brother, Samuel Judah, (1725-1789) the son of Abraham Judah, also came to the new world, probably to work with Aaron Hart. He was followed by several brothers, among them Uriah, (1714-82) and Isaac. This Samuel Judah is the founder of the extended Jewish family in Canada.

As early as 1768 Uriah Judah served as prothonotary in Three Rivers.

Canadian Jewish Archives, original series, no. 5, 1959, carries the Oct. 1776 bond of Aaron Hart and Isaac Levy guaranteeing payment of the debts of Uriah Judah.

In the humanistic tradition of the Jewish bourgeoisie, the Judahs are known to have been generous to the semi-mendicant shlemiels who mushroomed even in distant Lower Canada. Shimele, one of these poor, testified to this quality of the Judahs. (Marcus. (Marcus. Early American Jewry. I. 274)

URIAH JUDAH

The family genealogy states that Uriah Judah came to Lower Canada in 1760 after an adventurous stay in the West Indies. But documentary evidence to this effect, which would have been reassuring, is sparse for this early period, and historians, who tend to flee mythology, are wary.

Gérard Malchelosse reminds us that Uriah Judah had settled at Verchères before coming to Montreal. ("La Famille Judah", in Trois-Rivières Le Bien public, March 23, 1939)

We find both Isaac and Uriah Judah signing the 1774 petition for an elective assembly in the colony.

Although M. Stern gives 1782 as the date of his passing, the Public Archives record Uriah Judah's signature to a 1784 petition for a constitution for the colony and at an inquiry at which, incidentally, it is noted that being a Jew, he was sworn on the books of Moses. (Sack, Pp. 58, 69); also that on June 27, 1791, Edward William Gray paid the debts due by Uriah Judah to Locorn St. Luc. (MG 23, G.II.3, vol. 5; also there, letter Gray to Ames Hayton)

Arthur Daniel Hart cites old correspondence indicating that one of his London associates had invested as much as £30,000 in Samuel Judah's Canadian fur undertakings. (The Jew in Canada, A Complete Record of Canadian Jewry from the Days of the French Regimes to the Present Time. Toronto, 1906. P. 321; Sack. History of the Jews in Canada. P. 55)

He placed much money at the disposal of the American revolutionaries. Founders of nations are notoriously bad debtors and the Judahs, like the Harts, spent much effort in fruitless quest for recompense. Not that their claims were rejected. The Harts were assured that they could collect $50,000. In fact, a third of that amount was nearly held out to them. But canny Moses Hart knew, before Sholem Aleichem, that a dream of pudding is a dream, not pudding, and he refused to lay out further disbursements to secure his claim.

By the same token the U.S. Government acknowledged the Judah claim for $1,000,000 but even then the archives were extensive, paper work the matter of outer space, and the documents were lost.

But George Washington never forgot his Judah friends. When Mrs.(Catherine) Bernard Samuel Judah, died at New York in 1831, the papers of the day recalled that she was the last survivor of the ladies upon whom Washington called in farewell upon his retirement from public life.

However, this put no money in any Judah pocket, for all the investigation by Gen. Noble, brother-in-law of two of Samuel Judah's grandchildren,led nowhere.

A daughter of B.S. Judah married Alexander Thomas Hart, grandchild of Aaron Hart, in 1840.

Fathers of boys whom they wished, and could afford, to educate, read such enticing advertisements as William Nelson's of Three Rivers:

"Young Gentlemen commodiously and plentifully boarded, and expeditiously instructed in the English, French, Latin and Greek Languages -- Writing in an easy and natural style, after the best precedents -- Arithmetic Vulgar and Decimal -- Bookkeeping after the most approved Methods -- Geography with the Use of the Globes -- Geometry -- Navigation with all the late modern improvements -- Algebra, and every other useful and ornamental Branch of Mathematic Learning.

"The Advertiser having been brought up to the profession, respectfully begs leave to remark, he means to presume no farther than he is conscious of being perfectly able to perform: he builds his hopes of encouragement on no other foundation than his assiduity to merit it."

His Montreal reference and representative: Uriah Judah. (Quebec Gazette, Nov. 20, 1783)

Uriah Judah, residing on St. Paul St. in Montreal, was the trustee of a large store of merchandise belonging to Conrad Gugy at the time of his death. On the order of Sheriff H.W. Cugy of Montreal, Judah was ordered on Dec. 11, 1786 to turn these over to the executors of the Conrad Gugy estate. (M.G. 19, no. 2, series 3, vol. 24, Pp. 3268-69)

Uriah Judah was an intimate friend of his kinsman Aaron Hart, and the latter confided to Judah his concern about the education his sons Benjamin and Alexander were receiving in New York where, incidentally, they were staying with other Judahs.

Hearing that the Quebec Judah was proposing to visit the American metropolis, Hart wrote him to attempt to see the boys. If the reports father was receiving were true, Judah was to change their teachers, if that was at the root of their poor progress.

But Uriah could do little to change the situation. Friend Eleazar Levy wrote to Hart that the situation warranted drastic change. (R. Douville. "Années de jeunesse et vie familiale de Moses Hart," in Cahiers des dix)

Samuel Jacobs friendship for Uriah Judah took the form of St. Denis "Sallery", and so a misspelled note,

"Pray be pleased to excuse me to Mrs. Judah for not being able to send her some horse raddishes. The gardner, not having collected so many as he expected, planted a new bed with the remainder, to produce more next year. Make our kindest respects agreeable. Hopes she will favour us on exceipting (accepting) fifty bundles of sallery (celery). Shan't we have the pleasure our beating up (of your being up at) our quarters this winter?" (Dec. 18, 1781, in Marcus, American Jewry - Documents.Eighteenth Century, P. 38)

The documents of the time constantly remind us that frozen fish fillets and green-picked citrus fruits and fresh vegetables were not then flown into Dorval from California or Newfoundland. So gifts of salmon and of radishes grown in season were welcomed and were tasted with relish by gentlemen with friends on the rivers or on the farms.

Like his brother Isaac, Uriah Judah contributed a guinea towards the purchase of a third Scroll of the Law for the synagogue. (Canadian Jewish Archives, original series, no.4, 1959)

A family tradition has it that one of the brothers brought back to Canada two Scrolls of the Law, a gift of the London congregation, which survived in Shearith Israel at least a century and a half.

J.R. Marcus also notes that Uriah Judah was once the prothonotary of Trois-Rivières in 1768. (I. 274)

We find both Isaac and Uriah Judah signing the 1774 petition for an elective assembly in the colony.

Both Uriah and Samuel Judah participated in the formation of the congregation; their signatures appear on the founding document of 1779, and Uriah was the first Gabbay in the history of the congregation. Samuel, too, was elected, as Parnass, but he found it inconvenient to act, and chose to pay a fine of £3.

Both brothers were the first to subscribe to the supplementary by-laws, several months later, strongly forbidding expressions against fellow-members, and the subsequent citing of Levy Solomon on this charge.

In the fall of 1779 Uriah Judah was elected both Parnass and Gabbay.

ELIZABETH JUDAH

By virtue of the scholarship of Dr. Marcus we are able to reconstruct the hours spent by 8-year-old Elizabeth Judah in Montreal in 1771. She wove a sampler with the ten commandments, Lower Canada Jewish version:

I

Thou shalt not have more gods than (me).

II

(Before) no image bow thy knew.

III

Take not the name of God in vain.

IV

Nor dare the Sabbath day profane.

V

Give both thy parents honour due

VI

Take heed that thou no murder do.

VII

Abstain from words and deed unclean.

VIII

Nor steal tho thou (art) poor and mean.

IX

Nor make a wit(ness fals?)e nor love it.

X

What is thy neighbours dare not covet.

With all thy soul love God above
And as thyself thy neighbour love.

(Early American Jewry, II, Pp. 211-12)

Eliza Judah, also known as Betsy Abrahams, in the Hebrew as Besli bath Abraham ben Uri, married Chapman Abraham ben Abraham Cohen on July 18, 1781, in the presence of Rev. Cohen, also Simeon Cohen or Simeon ben Isaac Segal, and of Simon Levy. The dowry £1,500 Halifax. (Alan D. Carré and Malcolm H. Stern. "The Record Book of the Reverend Jacob Raphael Cohen", in American Jewish Historical Quarterly, vol. 59, no. 1, Sept. 1969, Pp. 23-82)

When Chapman died in 1783 she married Moses Myers, son of Quebec pioneer Hyam Myers.

Vaugeois identifies Elizabeth as the daughter of Uriah Judah (not known to M. Stern) whom, he notes, J.R. Rosenbloom wrongly calls Eliza Judd in his Biographical Dictionary of Early American Jews. (Juifs et la Nouvelle France, P. 128, n. 81)

When she passed away, she was buried, but not laid to rest, in the Prison St. cemetery of the Harts at Trois-Rivières, but was reburied in the cemetery of the Spanish and Portuguese Congregation in Montreal in Oct. 1909 when anti-Jewish feeling in the Mauricie reached the deceased Jewish pioneers of Quebec resting there. The stone marking her first repose was destroyed. (Memorandum of G.N. Hart of Haddonfield, N.J., 1941)

ISAAC JUDAH

The family genealogy identifies Isaac Judah as a brother of Uriah and Samuel, but he does not appear in Stern's chart of the family.

He was granted a license in 1777 to send trading goods to the Upper Country; Peter Fargues of Quebec was his security. (PAC, RG 4, B 28, vol. 115, Trade licenses, 1774-90)

A 1791 record in the Ottawa archives states that E.W. Gray has finally settled with Lord Dorchester re the debts due from the estate of Isaac and Samuel Judah, probably arising from the general credits given him by the Hon. John Cochrane during the war. (PAC, MG 23, GII 3, vol. 5, June 27, 1791)

Prof. R.C. McGillivray of Waterloo notes Isaac Judah, Montreal merchant, received a patent deed for 200 acres in Glengarry County (lot 24, 4th concession, Lancaster County) in Feb. 1804.

His name is included in the History of the Shearith Israel Congregation, 1919.

During his short stay in Montreal, the Rev. J.R. Cohen circumcised only four boys; two the sons of Aaron Hart (Benjamin and Asher Alexander) and two the sons of Isaac Judah (Abraham on March 15, 1781, and Uriah on Feb. 7, 1782).

The two marriages he performed were both in 1781 in the Judah family.

Berlah Judah, identified only as the son of the late Moses Judah, married Fanny (Feglah), daughter of Haim ben Judah, on Feb. 13, 1781. Samuel Judah and Andrew Hays were witnesses. The bride brought a dowry of £200.

The other was Elizabeth Judah to Chapman Abraham.

ABRAHAM JUDAH

Abraham Judah had not joined the other Montreal Jews in forming the congregation. But he was instrumental in securing for his community an extraordinary and valuable gift: two sacred scrolls of the Law. Probably for this reason a year later, the synagogue noted, on September 22, 1780, "the unanimous consent and approbation of the congregation of Jews to accept with satisfaction Mr. Abraham Judah to be a member of this society; that from this day he shall be on the same footing and enjoy the same privileges as any member belonging to us, the same as if he had been a subscriber from the first establishing of this congregation."

Two months later he was named, together with Levy Solomons, to arrange for the completion of the synagogue building.

For a number of years, blessings were recited on Yom Kipur for the welfare of Abraham Judah and Phoebe Samuel David, the widow of Lazarus David; similar blessings were invoked upon the congregations of London, New York, Curacao and Surinam -- an indication of the network of synagogue fraternity during this period. To this day such prayers of blessing are invoked in London for the welfare of the Montreal community.

An unidentified Judah is recorded paying a debt to Lawrence Ermatinger in 1772. (PAC, MG 19, A 2, ser. 3, vols. 87 and 88, Pages for May 1772)

Miriam Judah, the sister of Uriah and Samuel, married David Manuel. She also went by the names of Marian and May. She passed away in the fall of 1779 (Jewish calendar year 5540), as recorded by Rev. J.R. Cohen.

Her daughter Catherine married Levy Solomons in 1801.

SAMUEL JUDAH

One American historian states Samuel Judah was engaged in business both in New York and in Montreal since 1764. He is referred to as trading on a large scale and as widely respected.

During one of his many visits to New York he presented the Shearith Israel Synagogue an Eternal Lamp. His business took him far afield, for he operated many fur stations in Canada and the U.S.

In 1765 Samuel Judah returned to England there to marry Elizabeth Ezekiel of London. They came back to Three Rivers and raised a large family in Canada.

Samuel Judah (1725-89) comes to our attention then by his advertisement in the Quebec Gazette of Dec. 17, 1776, in which he announces his intention to leave the province and calls for settlement of accounts due to him and of claims upon him.

The civil action of Thomas Peters vs. James Blake was referred by the judge to arbitration in Dec., 1778, and Samuel Judah was named arbitrator by the defendant. In the event he found for the defendant, but the judge revised the finding in part. (MG 11, vol. 33, Pp. 6-7)

Samuel Jacobs was a little pathetic in his quest for friends in the small Jewish community, so that it is not surprising that he was very fond of the Samuel Judahs. Cordial business correspondence between Samuel Judah and Samuel Jacobs in 1780 indicates that their wives, too, were on friendly terms. But an expression of friendship that he called upon evokes some questions,

"I have gathered strength by the kind and hospitable treatment under your roof," he wrote to Judah on Feb. 27, 1783.

What strength? For Jewish continuity? If so, it is ironic that what he sought for himself and did not find, was also absent from the host family.

According to J.R. Marcus, "Samuel Judah was in constant touch with Aaron Hart... "The Judahs leaned heavily on their rich cousin and brother-in-law. The war had brought Samuel no luck; he was bankrupt and was trying to settle with his creditors for ten per cent on the pound. Now, in the spring of 1784, he was on his way to Detroit again with a cargo -- he had been there in 1780 -- hoping to improve his fortune. Before he left he wrote to Aaron that he was sending him a load of goods, including some Hyson tea, a puncheon of rum, and a package of books. The large candles which Aaron wanted were all gone; Samuel's father had taken them with him to New York, and they had been used in the Shearith Israel Shool on the Day of Atonement, in memory of the dead." (I.272)

In 1783 he served as executor of the estate of Chapman Ambrew.

Samuel Judah is known to the Library of Congress for a petition in their collection, jointly from him and from Isaac Melcher, to the young Continental Congress of the United States (41, VI, 481-82) dated March 29, 1787, stating,

"That the principal chiefs and leaders of the Pottawatamy nation of Indians at Detroit, for themselves and the whole of the said nation, on the 23rd day of September, 1780, conveyed unto Thomas Finchly of Detroit, merchant, a tract of land described in the conveyance (a copy of which is hereunto annexed, and the original ready to be produced), beginning at Swan Creek, a river running thence along the banks of Lake Erie to a little river or creek called Stroney Creek, one hundred and fifty acres in depth;

"That your memorialists are now the proprietors thereof; and that by the late treaty (of Paris, 1783), concluded between the United States of America and the King (George III) of Great Britain, the aforesaid tract of land is included in the territory ceded to the United States.

"Your memorialists have no doubt of the justice of their claim; but ever disposed to acquiesce in the just arrangements of Congress (whose measures we have always aided), humbly pray that the Honorable the Congress will confirm unto your memorialists the aforesaid tract of land, by such ways and means as you may direct, upon your memorialists' paying a reasonable compensation for the confirmation of the grant thereof." (J.R. Marcus. American Jewry, Pp. 449-50)

The document is a close parallel to a transfer of land by the Falavoine Indians to Jacob Franks which is part of the historic documentation of the Franks family, contemporaries of the early Judahs in Montreal.

B.G. Sack records seeing "an old business letter which disclosed that Samuel Judah's fur trade with London at one time amounted to £30,000. (P.45-46) He appears as a landowner in Montreal in Les Origines de Montréal, Livre-Terrier de la Seigneurie de Montréal. (History of the Jews in Canada. Montreal, Harvest House, 1965)

We find an indication of his place in the business community in 1778 in an Advertisement by "the Committee appointed by the Merchants of Montreal, to inquire and point out the most proper and equitable mode of disposing of Goods damag'd by Sea water on Board Ship."

This body had the supporting signatures of the leading merchants, but counted in its ranks only one Jewish citizen, Samuel Judah.

The recommendations submitted clarify the area of interest in which Judah was the sole Jewish participant.

"That Six persons be chosen annually at a full meeting of the Merchants, for the purpose of Surveying such Goods upon Oath, two of them to attend that business in weekly rotation, and one of such two to see the Goods to be surveyed by them, fairly and openly sold at Publick Vendue. That if any Package is found in part damag'd only, that part to be sold and none that is found.

"That this Regulation be made known to the Merchants Exporting and the Underwritten Insuring Merchandise to this Province, that they may have an opportunity of nominating persons to act in conjunction with those that may be appointed here.

"That the Sterling Cost of such Lots of Goods as shall be so damag'd and expos'd to Sale, be proclaim'd to the Buyers when they are set up.

"That this business of Surveying damag'd Goods for account of the Underwriters and seeing them thereafter sold, be transacted and done without any Gratuity whatever, and that the Surveyer so attending the Sale, shall signify his approbation of the Venue-master's Account by signing his name thereon." (Quebec Gazette, Sept. 9, 1779)

Like other Lower Canadians at the time he held slaves, nor was he the only member of the community to invoke the authority of the courts to hold a man in bondage. To situate this horror in the context of Black history in Quebec, we can cite Claude Marcil who estimates at 300 the number of black slaves in the colony at this time, probably the most insensitive period in its history in this regard. Not until twenty years later did humane concern begin to awaken. ("Les Communautés noires au Québec", in Education Quebec, vol. 11, no. 61, Apr. 1961, Pp.18-26)

Borthwick cites an incident when Judah complained to the judge, in April 1781 "that a negro man named Jacob was sold to him by Mr. Lauzon, having lived with him as his servant slave for about five months, that he did assault him and take him by the collar, etc. etc. The negro who had dared assault his master was committed to prison, and was ordered to post security for his future behaviour." (Sack, P. 55)

A letter in German from Samuel Judah dated Oct. 7, 1777 deals with a runaway negro slave girl belonging to the unnamed friend, his correspondent. She cannot be returned until communication is restored, presumably because of wartime conditions during the American Independence campaign.

The same file preserves a receipt Judah issued to Joseph Déspice in the sale of a twenty-year-old negro girl. (MG 21, vol. 13, Pp. 21, 23)

In February, 1772 we find him involved in a court action against Moses Hart.

The next October he was suing John Moring.

Surviving business records from the time note his 1775 account against E. W. Gray for anchovies, olives, carpets and oil; and another regarding cash paid to him, and his note payable to Abraham Franks. (PAC, MG 19, A 2, ser. 3, vol. 54)

Samuel Judah stood surety for François Dumoulin when he secured a license to send trading goods to the west in 1780, and again for Jacques Defond in 1781.

In 1782 he received his own license to trade in the Upper Country. (PAC, RG 4, B 28, vol. 115, trade licenses for 1782)

In August of that year, wartime, Samuel Judah arrived in Quebec, passenger in the "General Haldimand, Capt. Love, which he left at Green Island: She sailed from Torbay on the 30th of May last, in company with the London fleet under convoy of the Danae, Capt. Graves and the Pandora, Capt. Parry. -- On Tuesday the 11th of July in Lat.47.22. North, Long. 55.22 West, on the sudden clearing up of a thick fog, Capt. Love spied a sail on the larboard quarter, which gave chase to him; he made all sail he could from it, but finding it gained on him sail, he order'd the ship to be clear'd for action, it soon came close to him, fired a gun and hoisted American colours; it proved to be a Schooner full of men. At two A.M. he haul'd up his courses in order to engage her; she endeavour'd to rake him; which he avoided by tacking and bringing his broadside to bear on her, when a smart engagement ensued, which obliged her to sheer off several times, but she always return'd again to the charge, and thus continued until dusk. She tack'd and stood after him. Expecting she would endeavour to board him in the night, all hands were kept to Quarters, but in the morning she was not discernable from his mast-head." (Quebec Gazette, Aug. 3, 1780)

The Public Archives of Canada also hold papers in a law suit involving him in 1784. (MG 11, CO 42, vol. 56, P. 286, microfilm reel B42)

The American war had other repercussions on the career of Samuel Judah. Like other Jews in the colony, Judah sold the rebellious troops merchandise for cash -- American. He finished holding enormous sums in continental money for clothing and provisions he supplied the Americans; not one cent was redeemed by the victorious, independent nation. Not even such a fine letter as Gen. John Taylor's to Samuel Judah's son served a purpose:

"Mr. Samuel Judah was an honest and respectable Merchant in Montreal when our Troops under the Command of General Montgomery entered that City at the particular request of General Schuyler. I was with Montgomery -- with a letter of Credit to purchase for the use of our army such articles as I should deem proper for it. I became acquainted with Mr. Judah who furnished me with a considerable quantity of Goods and became responsible for many additions I made, as the purchases was more extensive than I at first contemplated. The zeal he evinced to aid our Troops and to aid my exertion demanded my warmest gratitude, and General Schuyler who was much pleased with my conduct expressed his thanks to Mr. Judah for the assistance he afforded me at the Evacuation of the American Troops. General Arnold under a pretence of procuring clothing for an army, took large quantities of goods from the Merchants of Montreal, and among other your father Mr. Judah felt the Effect of his marauding -- Arnold called on me some time after to pay me for the goods he had from your father, but as the money had experienced a depreciation, I refused to take it. He seemed to urge very strongly. I stated that Mr. Judah requested that he should pay this sum to me. Your father when passing through this city for New York stated that he had on hand a large sum in Continental money which he received for the merchandise he sold to our Troops and which at the time I saw him was worth very little upon the whole. I feel confident that no person in the City of Montreal felt so friendly to our army as Mr. Samuel Judah and that no one else suffered so much by it. I believe it was his ruin. It would afford me much pleasure to learn that my Country would assist the descendant of so worthy a man."

At the end of March 1780 London businessman Hayton wrote to his Montreal correspondent Gray,

"I cannot help doing Messrs. S. & I. Judah a justice to acknowledge that I am convinced that they must have used every effort in their power to make remittances, considering the late arrival of the fleet and the very short time they had to transact business in. But I am very sorry to find they had made such sacrifices as you allude to in order to enable them to do this, and I hope it may not be true, as the consequences of a Conduct of that sort must sooner or later be felt by them; as their correspondent here, and the sooner it is put a stop to the better -- I beg you will continue to give me such information as you may see necessary both concerning them, and any of my other Friends, tho' indeed they are by far the most material I am concerned with at present."

We can form a vivid picture of a Lower Canada businessman's life during the American War of Independence from the correspondence of his well-informed London supplier in 1781,

"It is particularly unfortunate for my friends who I shipt to this year that the Agnes on Board of whom the principal part of their goods were, should be taken, as there is every reason to suppose she is, tho' we have no certain Accounts of it; and you will amongst the rest surtain the loss of what I sent you by her, which however is a mere trifle, to what I lose as I stood some part of the risque myself, and I am very sorry to say that I fear Messrs. Ogie, Farrier and Judah's will be losers by some of the Underwriters, which is no Doubt very hard after being disappointed of their goods. But it is unavoidable in these precarious and unhappy times when it is impossible to say who are safe and who are not. I must own I have a very favourable opinion of Messrs. Judahs, and shall be much obliged to you to advise me if you see anything that ought to induce me to change it. We have little News of a publick nature but what has been already mentioned to you, as a reconciliation with America seems as remote as ever and I am certain the Commissioners will not effect it upon any terms short of Independence, which I fear we shall be under the necessity of submitting to. No engagement has yet taken place between Kepple and the French Fleet as the latter keep either in Port or in the Bay of Biscay, where our Fleet cannot annoy them, but, I hope Kepple will at all events prevent a Junction between the French and Spanish Fleets as we have too much reason to apprehend what the latter are hostilely inclined towards England, as well as the former, and should their Naval Force unite they will be far superior to any Force we can send against them, and if we should be so unfortunate (which God forbid) as to lose our superiority at Sea, Heaven knows what will be the Consequence."

In March 1781 the credit conditon of Samuel Judah was dealt with a letter of instructions from a London principal to his agent in Lower Canada,

"The capture of the Buccleugh was no doubt an unfortunate Circumstance for Messrs. Judah's, but as it was unavoidable, and only Neighbours Fare, it must be submitted to, and If I can believe them, they have not been entirely Idle in Consequence of it, as they tell me they have bought Goods with ready Money and endeavoured as much as possible to keep up an Assortment for supplying their Customers. But this I should be glad to hear confirmed by you, as also your opinion at large concerning them. The loss of the General Haldimand, will be a very unfortunate Circumstance for Mr. Samuel Judah as he had Furs on Board of her which at the Prices they have sold this Winter, would have cleared him a very handsome Sum. And it is particularly unlucky they should have gone to the Bottom and what is worse, no vouchers are received to enable us to settle any Part of the Loss, tho' I hope they may now soon come to hand."

But three months later London learned more about Judah's affairs. Gray wrote Hayton on June 24, 1781,

"You may remember that I formerly mentioned to you that I was apprehensive that the methods the Judahs took to raise money to make remittances would hurt them and of course materially affect your Interests, which I thought would have induced you to have been very circumspect in your dealings with them. But on the contrary I have heard that you have shipped them Goods to a very large amount this Year tho' you mention nothing of the matter to me, for which I am very sorry, for I have been informed within these few days, even since I wrote to you last, that Samuel Judah in particular, instead of buying Goods with ready Money in order to keep up an Assortment to serve his Customers, as he informed you, has been purchasing large Quantities upon Credit, and has been guilty of such Things that I can no longer think him that honest man he once appeared to me and you thought him to be; in short I am told that he is very much involved in Debt in the Province, and that in order to raise Money to pay his Debts when he can no longer avoid it, he does not care what method he takes to effect it. I have heard that he purchased a quantity of Port Wine last Winter of Mr. Fraser at Quebec for Forty-eight Pounds a Pipe at six months credit and sold it again for Forty-one Pounds to Mr. Dobie for ready Money, and I will leave you to judge if such transactions will not ruin any Man. And it is said he has been guilty of many such. I am therefore afraid that your Goods when he gets them will go to pay his Debts here, and it is out of my Power to prevent it as you have not furnished me with even a Copy of his Accounts Current or given me any Instructions about the matter.

I have already spoke to a Lawyer upon the subject, but he is of opinion with me that I cannot prevent his receiving the Goods when they arrive unless you should be fortunate enough to send me out his Account proved or inclose the Bill of Lading and Invoice to me, which I am afraid you have not thought of doing. I am therefore at a loss to know what to do; the only method I can take is to remonstrate with him and try if I can prevail upon him to do you every justice in his power, as I cannot make use of compulsive means, and if what I have heard is true, I am afraid that will have very little weight with him; however I will try what can be done to serve you. At all events I would not have you neglect sending me out the necessary Proofs as soon as possible and I shall inform you how I find his affairs by the next opportunity, which I hope may turn out better than they have been represented to me. I have heard nothing particular respecting his Brother, but I am afraid that they will find it a difficult matter to pay their Debts, for everything is so extremely dear at present that they must make a handsome profit to maintain their families and the old Folks too."

On Aug. 7, 1781 London acknowledged that part of the Montreal letter which relates to Samuel Judah "whose conduct gives me the most heartfelt sorrow and concern. But let the consequences be what they may, it is now too late for me to take any of the steps you mention. The goods I sent him, if they arrive at all must be in his possession long before any powers to recover it I might have passed out could possibly reach you; and therefore they would this year give no answer...

"This are situated so disagreeably as you apprehend, it is by no means improbable but as you said yourself that notwithstanding the information you have received, I would fain flatter myself that upon examination you would not find things as bad as they have been represented to you, as I well know how a man's enemies who would stick at nothing to effect his ruin, certain however it most undoubtedly is that if he makes many bargains of the sort you mention it must sooner or later produce that consequence.

"I am so deeply connected with him that it would be prudence and good policy in me to endeavour to get a principal part of the balance he owes me out of his hands before I take any rigorous measures against him or any steps that would in the least affect his credit; tho I hope you have been particularly cautious of any conduct that would induce comprehension that he owes anything in Canada, to make an immediate demand of it, put

an immediate stop to his credit and prevent his doing me that justice which he might otherwise do, and which I still hope it may be in his power to do as he has given me orders on a considerable quantity which, if it arrives safe, will yield him a very handsome profit and be a means of his retrieving some part of the losses which he may have sustained by other articles.

"I perfectly agree with you that he is by far too much addicted to speculation, but as I have before observed, it is my misfortune to be so very deeply involved with him at present that anything happening to him whilst he owes me so very large a sum must be productive of my ruin as well as his, and I think by supporting his credit for awhile longer at least there is great reason to believe that a considerable part of my balance may be got from him as I have the strongest assurances from him that he will remit me very considerably this fall and indeed, from the large property he has of mine in his hands, he can scarcely fail doing it and I hope to God no steps have been taken to prevent his making use of every exertion for that purpose. I shall wait with the most extreme anxiety to hear further from you on this subject as your letter has given me the most profound concern and planted thorns in my pillow which cannot be removed but by receiving more agreeable accounts than you give me any reason to expect; and I will not entirely despair of doing it until I hear further from you and which I increasingly hope and which may be soon, as my present situation is a most unfortunate one, and which I trust shall soon be relieved from, being very timely.

"As you say nothing particular regarding Isaac Judah, I hope you have no reason to blame him for those which the other has been guilty of, or you no doubt would have mentioned it; and as to Uriah Judah, I never did anything with him before this year, and that for an inconsiderable amount compared with what I have done with his brother, and it was not my intention to go any further with him, as it was with much reluctance that I executed the part of his order that I did; though I hope I shall have no reason to be sorry for it.

"I was an entire stranger to old Judah and his wife going out to Canada until they were actually embarked or I certainly should have objected to it, well knowing that their sons must have enough to do, to support their own families without being burdened by the Old People, and especially in those times when every necessary of life is so exorbitantly high that a family cannot be supported upon the most economical, but at a very considerable expense, and which I fear the business of the Judahs are the main disappointment." (from Amos Hayton to Gray)

To reconstruct the condition from court documents of protest signed by Bernard Hart on June 14, 1784, it was pointed out to the creditors "the advantage that would result to his Estate if left to his own management, which would Work their and the said Amos Hayton's Interest. All which his said principal Creditors in this Province took into their consideration and, being fully convinced of the propriety of his having the management of his affairs and being suffered to go on with his business which would inevitably be for their advantage as well as for the said Amos Hayton, did, on the same day accede thereto by subscribing their names to an Agreement for that purpose then entered into between him, the said Samuel Judah and them. And, whereas, the said Samuel Judah after the signing of the said last mentioned papers to wit, on the 31st day of May last, had the management of his affairs in his own hands and was thereby reinstated in his former credit so as to carry on his business as formerly, which he was doing to his own great emolument that would soon have enabled him to do honor to all his concerns. When said Edward William Gray, without a special power, instruction, Direction or advise for that purpose from the said Amos Hayton, but from his own mere will and pleasure, illegally obtained from two of the Judges of His Majesty's Court of Common pleas for this District an order whereby all the property of the said Samuel Judah was seized and his credit thereby ruined and a final stop put to his business, from all which illegal proceedings the Interest of his Creditors must suffer prodigiously and himself wholly ruined. Wherefore I, the said Notary Public, at the request aforeward, did and hereby do Protest against the said Edward William Gray, for all losses, costs, charges, expenses, damages or prejudice whatsoever that have already happened, or may hereafter happen to him, the said Samuel Judah, or to any of his Creditors for or by reason of the said illegal proceedings and Seizure."

Judah was declared an insolvent debtor and the majority of Judah's creditors in number and value on June 25, 1784 came to an arrangement with Edward William Gray for Amos Hayton to secure 10/- on the pound to all creditors. Gray and William Lindsay were named trustees.

But creditors Taylor & Forsyth did not accept this arrangement and sued in the Court of Common Pleas in July 1784. By order of this court they summoned a number of citizens, including Louis Bellaire of Masquinongé, to appear to render an account of such names and effects belonging to Judah as may be in their custody so that they may be applied to Judah's debt to the plaintiffs. The court upheld the protests of the majority creditor legally authorized. And their settlement was homologated and confirmed.

But on Sept. 1, 1784 the Court of Common Pleas appointed trustees to the estate of Samuel Judah, a bankrupt. The attorney for the estate advertised on Sept. 1, 1784, for "All persons, having any claims or demands against the said Estate, are hereby desired forthwith to give in their same duly authenticated; and those indebted thereto, are required to make immediate payment, to either of the said Trustees, or to me, otherwise they will be sued for the same without further notice.

"The elegant and commodious stone Dwelling-house and Stores, belonging to the Estate are to be sold. For particulars any persons, desirous of purchasing the same, by private contract may apply, as above, on or before the 1st of October next; and if not then disposed of, they will be put up at public sale, at which timely notice will be given.

"To be sold also, belonging to the same Estate, a large and valuable assortment of goods, etc. etc., under prime cost for cash, or at a very moderate advance on credit." (Quebec Gazette, Sept. 9, 1784 and Jan. 13, 1785)

Edward William Gray and other creditors sued in the Court of Common Pleas in April 1785 for the return of merchandise and for payment of sums due to them.

Possibly because of these wartime losses Samuel Judah found himself in grave difficulties financially and his creditors took over his assets and business.

In 1786 Edward William Gray, William Lindsay and Amos Hayton were trustees to Samuel Judah. In that capacity they found themselves in a situation in which Mrs. Elizabeth Chapman had the sheriff sell his property. Her attorney: Bernard Hart. (Quebec Gazette, Feb. 16, 1786)

Sometime after his demise,court action involving his estate continued before the Court of Common Pleas, with Alexander Henry and Richard Dobie as plaintiffs. E.W. Gray acted on behalf of the estate of Samuel Judah.

Judah had purchased a St. Paul St. house and lot from Joseph Bindon, but £782 remained unpaid on July 18, 1791, and the court ordered the property to be sold to satisfy the claim. (Quebec Gazette)

But a 1792 letter in the McGill Archives from the Seigneur of Montreal, whose residence was in the Seminary, objected to the sale pending satisfaction of the claims of the church institution.

In the fall of 1780 he was elected Parnass of the Congregation. His gift of a Ner Tamid (an Eternal Lamp) to the New York synagogue, whence the Montreal congregation borrowed its name, indicates the close relationship between the communities. (Vide the family genealogy)

When the Rev. Jacob R. Cohen sued the congregation for salary due him in 1784, Samuel Judah was his character witness. (PAC, MG 11, vol. 33, Pp. 18-30)

When Kaufman Abram signed his will in Hebrew in 1783 he chose Samuel Judah as the executor for his estate.

In Samuel Judah's case we happen to have a vivid picture of an aspect of his cultural life.

We know that he loved books and was anxious not to have the children deface the precious volumes. He wrote to Aaron Hart that he was sending the 21 volumes of Bell's British Theatre and the 15 volumes of Smollett's History of England containing precious plates. "Don't let the children get at the plates in the books; they will smear or destroy them."

His library consisted of "over eighty books, not one of which was of Jewish interest. Quite a number of the English classics were there: Shakespeare, the Spectator of Addison and Steele, Gibbon's Decline and Fall, the works of Pope and Swift, and Smollett's Peregrine Pickle. Dictionaries and gazeteers and grammars were spiced with a cook book. There were various bound magazines, travel books, and an occasional volume of poetry. In the field of political science his library was represented by Acts of Parliament, the Annual Register, and the Parliamentary Register. In the field of American history he possessed two works: Abbé Raynal's Philosophical and Political History of the... East and West Indies, and Hutchinson's History of the Province of Massachusetts Bay. If the formula for a good library is theology -- then this library contained the necessary ingredients, for Trials for Adultery, Bret's Grecian Courtezan, The Adventures of a Jesuit, and a volume on the peerage rubbed elbows." (Marcus, I.272-73)

His library included volumes of the Gentleman's Magazine and the Town and Country Magazine and a history of Canada!

American Jewish historians have noted that book collections such as these were not to be found in more than three Jewish homes on the continent at this time.

Granted that owning is not reading, even if it only indicates intention to read in the next incarnation or an indication of taste for the benefit of visitors, books on the home shelf still are another facet of the total persona; in the case of these merchants far out in the wilds they tell us something about these Jewish pioneers.

Taken together with the Hebrew books in Chapman Abraham's library, the prayer books owned by Aaron Hart and his children reading plays,and Ezekiel Hart buying books at the sale of the Protestant minister's library, we conclude that the language standard of the tiny community cannot be judged by Aaron Hart's linguistic attainments, the traits of which exist in his son Benjamin.

On the other hand there is a corelation between this linguistic attainment and the extent of integration and intermarriage. There was no Jewish continuity among the Judahs and the Jacobs as there was among the Harts.

There is a record of his death in New York in 1789.

The continuity of the Judah family is largely in the progeny of Samuel Judah and comes in two very separate branches.

The Jewish continuity is through his son Dr. Bernard Samuel Judah who married his cousin Catherine Hart, daughter of Aaron Hart and of Dorothy Judah; the latter a sister of Bernard Judah's father.

Another son, Dr. Abraham Judah, died young in the southern United States.

Of Bernard Samuel Judah's seven children, daughter Miriam Judah married Alexander Thomas Hart, the son of Moses Hart, and the Judah-Hart strain continued for generations. We need mention only son Lewis A. Hart, distinguished by his synagogue leadership and by the authority he gained in the notariat of the province at the end of the 19th century.

His son Arthur Daniel Hart was the editor of the often cited The Jew in Canada. (1926)

The Hart Papers at Trois-Rivières speak of a Samuel Judah in New Brunswick in 1818. (A-9)

HENRY JUDAH

The Christian continuity of the Judahs stems notably from another son of Samuel, Henry Judah or Thomas Henry Judah who married out of the Jewish faith. This probably ended the formal Jewish connections of this branch of the Judahs, although the Harts continued warm family relations with their progeny. His name occurs incidentally in a business letter of 1837 from Eleazar David of Montreal to Moses Hart of Three Rivers.

In the complex definition of a Jew under these conditions, Judah probably fitted a pattern, but later generations of the family have been distinctly Christian and completely unrelated to the Jewish heritage. So much for the Jewish dynasty hopes.

Old families in Canada did die out and; but for developments in distant lands, the Quebec community might have died out as other Jewish communities had died out in Nova Scotia, in British Columbia after 1871, and elsewhere on the expanding map of the world. There would have remained personal archives of the Harts in church hands, the printed works of de Sola, possibly a closed synagogue and not much else. It has happened before.

Henceforth connections of these Judahs with the organized Jewish community are most tenuous, and there is little to connect Henry Judah with his Jewish origins. One of the slight links is the Judah name on a document giving the "Amount subscribed by each family for the support of the synagogue - Montreal - 1840". The 11th name on the list of 16 families is that of Judah, subscribing £4.0.0 for seats.

On May 23, 1805 Henry Judah advertised his intention of commencing "the Bottled Beer Business, begs leave to inform his friends and the public in general that he will have ready on the 10th of May next (at his Cellars in St. Peter's Street, under the House at present occupied by James Voyer Esq. Notary Public) any quantity of the following Beer for immediate use or exportation,

warranted to be equal in quality to any heretofore, bottled at the following prices:

Burton Ale	per dozen	10/6)	
Mild Ale	do.	8/6)	including Bottles.
Porter	do.	8/6)	

and three shillings per doz. will be paid for Bottles returned. The above Beer from Mr. Young's Brewery at St. Roc." (Quebec Gazette)

Henry Judah advertized in the Quebec Gazette and in the Mercury of March 21, 1806 "to inform his friends and the public in general that he has removed from the St. Roc Brewery into the lower part of Mr. Charles Smith's house, in the Lower Town Market Place, where he has for sale, Burton's Mild Ale and Porter, by the hogshead...

"The Subscriber intending to open a Store of Various Articles necessary, in particular for shipping, as soon as the Navigation is open, begs to solicit the patronage of his friends."

In the same issue of the Mercury, advertisements promised ale and porter at M. Hart's Brewery at Three Rivers "warranted equal to Quebec and Montreal ales."

A census of 1805 lists, not conclusively, the family of Henry Judah on rue St. Charles, Protestants.

There remains the striking fact that the prothonotary's record of the Jewish residents of Montreal does not contain the name of a single Judah in the decades of its continuity, although a Mrs. Judah was a seat holder in 1839 and an unidentified Mr. and Mrs. Judah occupied synagogue seats in 1841.

This branch of the family being thus severed from Jewish history, even the Christian family historians feel the paucity of information. "It was the custom simply to omit further information in the Spanish-Portuguese family history of anyone who had strayed in this manner -- which explains the lack of all further information of Henry's family and descendents, although we know that Henry worked with his uncle, Aaron Hart, a lawyer in Three Rivers. We know that two of his sons were Henry Hague and Thomas S. The only reference we have of his family is in two letters of Hart's 'Uriah Judah's nephews Henry Hague and Thomas S. are lawyers in Three Rivers and Montreal.' Also, 'When Dr. A.H. David moved his family to Three Rivers, Thomas S. was the only member of the Judah family who helped him.'"

A Henry Judah was among the Jewish deceased who had been laid to rest in Three Rivers.

A schoolboy Thomas Judah, nephew of Moses Hart, is mentioned in a family letter in Dec. 1819 as a pupil of Mr. Barns' school in Three Rivers. (Raymond Douville. "Années de jeunesse et vie familiale de Moses Hart", in Cahiers des Dix, vol. 23, 1958, P. 210)

HENRY HAGUE JUDAH

Henry Hague Judah, born in London in 1808, the son of Henry Judah, came to Trois-Rivières very young. He studied law and was admitted to the bar on May 29, 1829. (J.-J. Lefebvre, P. 289) He practised law in that city until he removed to Montreal in 1840 or earlier. He was retained by the magistrates in a case involving an application by Justice Vallières de St. Réal for a writ of certiorari. Judge Bowen pronounced judgment at the time in a manner that interested the Assembly's Standing Committee on Grievances; A.M. Hart had petitioned the Assembly to complain about the corruption and other ills in Judge Bowen's court.

Soon afterwards, however, his life took another turn. Henry Hague Judah had married Harline, daughter of Dr. René-Joseph Kimber, Catholic, in 1829. His father-in-law, the trifluvian who touches the history of the Jewish community in a number of roles, was elevated to the Legislative Council of the United Province of Canada in 1843. He had something to do with Judah succeeding him as the Champlain County member of the House of Assembly of the Province of Canada on Sept. 22, 1843. (F.-J. Audet. Les Députés de la region des Trois-Rivières, 1841-67. Trois-Rivières, 1934, Pp. 66-67)

The Kimbers were one of the good families of Quebec, related to the Papineaus. (Jean-Jacques Lefebvre. "La Vie sociale du Grand Papineau," in Revue d'Histoire de l'Amérique Francaise, vol. 11, 1958. Pp. 484-85)

Judahs were to be prominent in the profession of law in Quebec for many years and Henry Judah may not have been the first in the family to be admitted to the bar.

As we follow the steps of the 19th century Judahs we find ourselves on a cultural path that is more common in European and American Jewish history than Canadian: tight interweaving in the life of the total community accompanied by lesser Jewish commitment and, quickly, intermarriage, conversion, the assimilation which is disappearance; posing the difficult dilemma: is civic and cultural integration necessarily the prelude to the disappearance of the Jew?

Early in 1833 Judah contested the Assembly seat of Three Rivers but lost to Jean Desfosses. (La Minerve, Feb.1833)

The biographer of Henry Hague Judah, F.-J. Audet, records that Judah sought the position of district coroner in 1836, but without success. It may have encouraged him to settle in Montreal four years later.

He became police magistrate in Montreal, and the history of the bar of the city records that he presided over the first dinner of the association in 1837.

We have records of a law partnership between H. Judah and his brother Thomas S. Judah in 1840 in Montreal. That was the year H.H. Judah established himself in the city.

Henry Judah participated in the proceedings of the Trois-Rivières bar meetings of Apr. 20 and 25, 1840. (L.M. Lande, Canadian Historical Documents and Manuscripts. Montreal, 1980, no. B 281, Pp. 340-41)

Like his brother Bernard and his sisters Miriam and Sarah, he married out of his father's faith, in Trois-Rivières, and indeed, it was his progeny who are known to figure prominently in Quebec history.

Judah recalled an 1844 visit to Chief Justice of Lower Canada, the Hon. Joseph-Rémy Vallières de Saint-Réal in his home on Lagauchetièrre St. He remembered the liveliness and even gaiety of his host in spite of his infirmity and the pains he was suffering. (Francis-J. Audet. Les Juges en chef de la Province de Québec, 1764-1924. Quebec. L'Action sociale, 1927. Pp. 87-90)

We have a vivid memoir of that visit by the young Judah, for it brought together in informal friendship three important figures from the legal world of the colony.

Whatever the subject of the pleasant social conversation of the legal gentlemen, it certainly did not include a number of connections between the judge and the Hart kinsmen of Judah, as the time Judge Vallières was sentenced to one hour's imprisonment in the gaol of Trois-Rivières in a case relating to Moses Hart.

It appears that the judge acted in his capacity of agent for the owner of some land adjoining Moses Hart, and in concert with him, and caused the King's highway to be straightened and widened and removed some fifty feet. This led to court action.

"An Indictment for a nuisance was preferred against Mr. Justice Vallières who undertook the management of his own cause before the Court; and in the course of the proceedings which took place thereupon, the Court in the exercise of its authority sentenced Mr. Justice Vallières to one hour's imprisonment in the Gaol of Three-Rivers for a contempt of Court. The sentence of the Court was carried into effect, and Mr. Justice Vallières subsequently complained to me of the proceedings of the Court, and demanded the interference of the Executive to vacate it's sentence, and further to vindicate the dignity of the judicial character thereby injuriously affected in his person.

"Before coming to any decision on the subject I consulted the Attorney and Solicitor General personally, and they were both of opinion, in which I fully coincided, that the authority of the Executive ought not to be interposed in the affair -- that the Tribunals of the Province being open to Mr. Justice Vallières he might there seek the redress of any injury sustained by him, by an undue exercise of the powers of the Court of Quarter Sessions; and that having laid aside his quality of Judge in order to conduct his own cause before the Court of Quarter Sessions, he could not with any regard to consistency expect that the Magistrates composing the Court should be visited with the displeasure of the Crown for any want of respect shewn to him in his judicial character," to quote Lord Aylmer's report to London. (Journals of Legislative Assembly, 1834, Appendix U.U.)

The judge appealed unsuccessfully to the governor of the colony,

"Conceiving as I do that the sentence of the Court is erroneous and must be the result of passion and prejudice, I confidently hope that the King's Prerogative will operate as a means

of vacating that sentence, as well as of removing the principal proceeding into the Court of King's Bench where I may expect an impartial trial.

"The indignity which has been cast upon me by this public censure of punishment must have had the effect of lessening in the public mind the character of the judicial office with which I am invested."

As Judah and Judge Vallières were conversing, another visitor was announced, the Hon. John Beverly Robinson, Chief Justice of Upper Canada. The two men looked at each other at first and then remembered having met once before, many years ago, young men travelling in the Cornwall area, in their search of a future. The Quebec youth was seeking his mother from whom he had been long separated; the Ontario man seeking a toe hold in legal training, perhaps in Cornwall. The chance meeting of the companions of the road had impressed them very deeply, but it was not until thirty-seven years later that they met and recognized each other again. The renewed friendship was intense and lasting.

Perhaps it was then that young Judah, in his turn, also became the intimate of the Ontario judge.

Incidentally, it was Mr. Robinson who sold the budding Toronto Jewish community the site of their first cemetery in 1849, the first formal act by Toronto Jewry. Ten years later he organized a committee of Christians to aid the Jewish victims of the war in Tangiers. (S.A. Speisman. The Jews of Toronto, a History to 1937. Toronto. McClelland & Stewart, 1979, Pp. 17, 67)

JEWS IN 1837

The Judah annals highlight phases of social history which balance the more familiar integration of Quebec Jews with anglophone society. The most dramatic of these events occurred in connection with the events of 1837-38.

Members of the Jewish community followed events closely.

"There was a great second loyal meeting in Montreal on Monday 23 Oct. 1837, from 4500 to 7500 persons said to be present. On the same day there was a revolutionary meeting at St. Charles, 1000 to 5000 said to be present. Things have come to a pretty crisis. War seems to be preparing for all parties. Troops have been sent to different country parishes. The 24th Regiment from St. Charles has been ordered down. An officer has been despatched to Nova Scotia for more troops. All together things look like revolution. Sooner the dupes try it the better," a contemporary Jewish record states.

Abraham Joseph was of the delegation of 14 to Castle St. Louis on Oct. 7, 1837 asking sanction of the governor to form a Volunteer Rifle Corps. The governor refused, but complimented and thanked the 326 petitioners.

On one side of the coin there is deeply stamped the loyalism and the military participation of the bulk of the community and of its younger manhood, as typified by Benjamin Hart who waged a violent and long war of 1837-38 all his own. That complex personal chronicle will be recorded in its own pages.

The names of Jewish merchants intermingled on political petitions with those of other citizens as equally concerned with the government of the colony and as equally privileged to address themselves to the highest authority.

The record establishes the loyal dedication of the community to the government of the country and its identification with their civilization. To a certain extent it explains the virtually total absence of prejudice against the Jewish society of the colony for many decades; indeed, until a wave of hatred from overseas in the 1880's swept into Canada -- Upper as well as Lower Canada -- and overwhelmed the logic and the traditions of a century. Until then the Jews were totally untouchable, being so integrated into the society, and having proven their value in the crucibles of conflict.

Phyllis Joseph is sensitive to the social condition. "These pioneer settlers and their descendants for several generations were held in great respect. We find proof of this in the fact, in almost every instance, the young Jewish man was invited by the governor of the time to take up a commission in His Majesty's Militia. Those were not the days when the officer rose from the ranks; they were selected from the best class of citizens. Consequently, we find that in the Rebellion in 1837 and even as late as the Fenian Raids, most of the Jewish men of military age were serving as officers and as members of the militia." (P.36)

But the political and military record of the small community at the time is replete with significance and its documentation is worthy of examination quite apart from continuing elements of apologetics.

The Jewish men entered the officer ranks. Nothing in their personal or family lifestyles prevented them from joining, from serving in the field, from living the army life wherever the action took them.

The presence of Jews in the active forces was the product of a process. As has been noted in the case of Moses Hart's son, the entry of Jews into the forces had been questioned. Even Benjamin Hart suffered an episode of discrimination in 1811.

But the war of 1812 seems to have been a turning point, where, for reasons of military need or because of the graph of social integration processes, Henry Joseph and the brothers Ezekiel, Benjamin and Alexander Hart all served in that war.

The list is eloquent as representative of virtually all the Jewish families in the community, especially the related Hart-David-Judahs. It is virtually a total directory listing of its young men.

The extensiveness of that list is of great interest in the context of a little studied social phenomenon, especially in Jewish history: the participation in the military by Jewish volunteers.

Much has been written in terms of biography and of apologetics -- of proof of loyalty to the governing authority to the nation or to the ideology that a state may represent at a given moment. But there are many other phases of the sociology that have not been examined by the Jewish social historian, e.g. the economic. The King's shilling which we find in the Elixir of Love never attracted Jews to the ranks even in spheres of utmost penury, probably because of the living conditions related to the service.

There are the durable medieval traditions of the privileges accorded to the officer class which deprived Jews of commissions; these operated in Canada into the nineteenth century.

If we bear the period in mind, we will understand that 1837 was not so distant from the time when Jews had no rights or were not yet part of society; from the time when the image of a soldier and an officer was that of a violent marauder against whom there was no appeal. During those ages one could deal with the officer, cater to him, supply his needs or those of his superiors, but never be one of his. Loyalty had to be sworn to the victor in the latest skirmish. It was unthinkable to give life for his cause or for his colours.

The emancipation of the Jews was to alter these attitudes in a revolutionary manner. But in 1837, the emancipation was new, uneven and uncertain. In this context we find the 1837 Lower Canada list interesting.

Further social research on a statistical basis in western European and American history will establish whether the Lower Canada record is the first in this history.

Another aspect of this military phenomenon should be noted: the social ease with which the Jewish men in uniform fitted into the world of the military.

For nearly two thousand years there were "folkloric" barriers to Jewish participation in the military. The lifestyle and the ethos of each Jewish tradition differed so from their non-Jewish neighbours (not to refer at all to pacificism and to differences in political commitment) that a uniform was destructive and atomizing for a Jewish recruit, not to speak of a Jewish officer. We need only refer to the mass phenomenon of the kidnappers-recruiters in Russia but a decade or two later.

There was, therefore naturally, on the other hand the traditional rejection and hostility of the non-Jewish men in uniform towards the very concept of a Jewish comrade in arms. One of the institutional structures erected to maintain this barricade was the highly ideologized esprit de corps. Other instruments were the class and the "society" clan traditions of the officer class and the localized structures of "the other ranks."

What happened to all these structures in Canada in 1812, when the drawbridges were suddenly lowered?

The record is clear. There were no barriers.

Clearly, before the bugle called they had been living the same life as those who were soon to call them fellow officers.

It is a large statement about their integration into all phases of Canadian society. It is also a definition of their Judaism which will call for a finer analysis.

It also says much about their acceptance into the intimacies of Canadian society.

The story of this Jewish participation in the military has often been told in terms of their patriotic contribution to defence, of the ranks they attained, of their acceptance in the social life of the military which paralleled their economic prominence. As impressive as the dinners to which they were invited is their sharing of their daily duties implied by the uniform.

The record of Benjamin Hart's quasi-military duties as officer of the peace during the 1837 uprising when, more boldly than other holders of the commission, he led the men in uniform to the defence of order in Montreal society, speaks volumes about the Jews' place in this world where a Hart could act under such conditions.

Jews were members of the Beaver Club and of the Curling and of the Whist Clubs and attended the banquets of the St. George, St. Andrews and the St. Patrick societies.

Benjamin Sulte records that the widow of Aaron Hart, having removed to Montreal, "lived on St. Gabriel Street, where she received people of high financial and commercial standing such as John Jacob Astor, the McTavishes, the Reeds, etc." (Le Monde illustré, 1843)

Adolphus M. Hart remembered that "one of the best friends my father ever had, and whom he knew while still very young in Canada, was Sir James Henry Craig." Adolphus Hart's younger brother, born at the height of the election controversy, had been named Ira James Henry Craig Hart.

In a remarkable document, Louis Rosenberg collected the names of the Jewish soldiers who fought on the government side during the uprising of 1837-38. It includes: Col. David of Chambly, Capt. Isaac Valentine, Major Abraham Joseph of the Quebec Light Infantry, Cavalry Major Eleazar David, Jesse Joseph, Bocco Hayes Hoffstetter, Aaron Moses Hart, Alexander Thos. Hart, Samuel Becancour Hart, Aaron Ezekiel Hart, Aaron Philip Hart, Theodore Hart, Arthur Wellington Hart, Alexander Hart, Henry Judah, Thomas Judah.

Jacob Henry Joseph was commissioned an officer in the regiment enrolled under Col. Dyer and fought in the area between Laprairie and St. John to resist the attack from Lacolle. At that time he was sent with dispatches at night between the commander Sir John Colborne and Gen. Wetherell in command at Chambly of the troops on the Richelieu. (Jewish Times, March 8, 1907)

Dr. Aaron Hart David was assistant surgeon of the Montreal Rifles commanded during the 1837 events by Col. de Bleury and was present with his regiment at the battle of St. Eustache and at other engagements.

Dr. Aaron Hart David was surgeon of the 6th Fusiliers (later amalgamated with the 1st Prince of Wales Fusiliers). Borthwick refers to his unit as the Hochelaga Light Infantry during the Fenian Raids. (Montreal -- Its History, to which are Added Biographical Sketches with Photographs of Many of its Principal Citizens. Montreal, Drysdale, 1875, P. 61) Later he was senior medical officer of the Montreal Brigade on service in that campaign.

A family record states that Dr. David had two other sons, in addition to Major R.S. David, with him in the 1870 campaign.

Rosenberg supplements his list with four names from the Montreal families who fought the Fenian raids of 1870: Maj. Robert Sullivan David, Capt. David A. Hart who commanded the First Prince of Wales Rifles, Lewis A. Hart, Henry Benjamin.

The military tradition seems to have been particularly strong in the David family, with two sons of Dr. David fighting in the U.S. Civil War, on opposite sides: one as lieutenant with the 25th New York Cavalry, and the other a major on the staff of Lee.

Cecil Roth notes that when Lieut. David Lloyd Hart was awarded the Military Medal for gallantry at Dieppe, it was a sixth generation Canadian Jew who was thus honoured. ("The Jews in Defence of Britain, Thirteenth to Nineteenth Centuries", in Transactions, Jewish Historical Society of England, 1939-45. P. 21; Canadian Jews in World War II. Decorations. Montreal, Canadian Jewish Congress, 1947. P. 54)

But there was an inherent limitation to this loyalism. It was an attachment to a part of Lower Canada and to a portion of Lower Canada's population. It did not include the French-speaking portion of Lower Canada and put French Canadian interests in another light. The events of 1837-38 were a civil war, and Rosenberg's list is a roster of those who fought on one side.

This entry of the Jews into the military was easily accompanied by their admission to such professions as the law and the notariat. On Nov. 22, 1824, Aaron Ezekiel Hart, the son of Ezekiel Hart who was named Aaron probably because he was born just three years after his grandfather Aaron Hart had died, petitioned Sir Frances Nathaniel Burton,

"The petition of Aaron Ezekiel Hart of Quebec, student at law, humbly showeth that your petitioner hath bona fide served a regular justice of the court of the King's Bench for the district of Quebec, and that upon the certificate of your petitioner having been examined and approved by the person aforesaid, your Excellency will be pleased to grant to your petitioner a commission to practise as barrister, advocate, attorney, solicitor and counsel in any or all of His Majesty's courts of civil jurisdiction in this province."

On the back of this petition and in another handwriting; that of J. Sewell, C.J. follows:

"Let the petitioner be examined before me or any two of the justices of Montreal of the King's Bench for the district of Quebec at the court house in the city of Quebec in the Judges' room, on Monday next at the 29th day of November instant, at the hour of ten in the morning and let notice of my intended examination be given as usual." (State Records of Lower Canada, 1793-1824)

A certificate signed by John G. Thompson exists, dated Nov. 30, 1824 at Quebec testifying that "Aaron Ezekiel Hart personally appeared before me this day and took and subscribed the Oaths of Allegiance, Supremacy, and Abjuration, and the Oath for the faithful discharge of the Trust hereby reposed in Him.

"Aaron Ezekiel Hart of the City of Quebec, Esquire hath passed his Trials and was found to be qualified to the practice and profession of the Law as Advocate, Barrister, Attorney, Solicitor, Proctor and Counsel in all His Majesty's Courts of Justice in Lower Canada, according to the certificate signed by the Lieutenant-Governor on Nov. 6, 1824 and entered in the Register's office of the Records at Quebec, Nov. 29, 1824 in the 8th Register of Letters and Patents and Commissions."

Aaron Ezekiel Hart was probably the first Jew to be admitted to the practice of law in Canada.

Extensive legal records survive indicating that Aaron Ezekiel Hart acted for his Uncle Moses of Three Rivers as early as 1825, to well into the 1830's. His bills for services in 1825 ran to some £120 and the following year to £175.

A measure of Aaron Ezekiel Hart's acceptance into Quebec society is his role in a duel between C.-O. Perreault and Charles-Clement Sabrevois de Bleury, later member of the Assembly for Richelieu, which took place in 1836 following an altercation at a legislative committee session.

As Perreault tells it, "Early the following morning received a visit from Mr. Hart, advocate of Quebec, sent by Mr. Bleury to seek satisfaction for the insult of the previous day. Invited him to return at two o'clock. The others -- W.H. Scott, E.B. O'Callaghan and M. Child -- questioned this early visit. In the House O'Callaghan replied, when I asked his advice, that Scott was of the opinion that I should meet him in the field... Together with Hart and Scott we agreed to meet at three o'clock on the road to l'Ancienne Lorette...

"Scott was superb through the entire affair, firmly demanding simultaneous reciprocal apologies; on the other hand he selected the most advantageous arrangements in case of a duel. The pistols were discharged into the air. Everybody complimented Scott. The House was upset; they surrounded Edmund Baillie O'Callaghan, member for Yamaska, who announced the happy outcome. It was decided that the case had been settled amicably and honorably." ("Inventaire analytique du Fonds Fabre," in Rapport de l'Archiviste de la Province de Québec, 1972. P. 146)

A month after he was named advocate, similar trust was imposed in Thomas Horse Judah; Henry Hague Judah the following year; Philip Aaron Hart in 1830; Eleazar David David in 1832; Adolphus Mordecai Hart in 1836 and Moses Samuel David in 1837. (Lefebvre)

Two years after being admitted to the bar, A.E. Hart was appointed ensign and his career as officer began. (Canadian Jewish Archives, new series, no. 18, Pp. 414-16)

The name of Aaron Ezekiel Hart appears on an 1833 list of persons for whom seats were reserved in the synagogue which was being planned. (Canadian Jewish Archives, vol. 1, no. 1, Aug. 1955, P.7)

He maintained fairly close relations with the extended family which was in effect the Jewish Community of Canada.

It fell to him, on the passing of his father in Sept. 1843, to convey the sad news to "one of my father's dearest friends," the Hon. John Neilson of Quebec, editor of the Quebec Gazette. The letter was published by R. Julius J. Price in the American Israelite of June 14, 1917.

Aaron Ezekiel and Phoebe Hart were the parents of Frances Lazarus, Sarah, Asher and Sophia David

He died on Sept. 27, 1853, at the age of 54, and was buried in the Prison St. cemetery at Three Rivers, but, his remains were reinterred, stone still intact, in the cemetery of the Spanish and Portuguese Jews in Montreal, in 1909.

Moses Hart, who seems to have had litigation in his heart, employed a family of lawyers, including also Adolphus Mordecai Hart, G. Joseph, H. Judah and Thos. S. Judah.

By January 12, 1844 we find three other Jewish advocates of Montreal formally attending and witnessing the last rites of Charlotte Hart, widow of the late Moses David: Moses N. Binley, G. Joseph and Moses Samuel David.

The list of advocates practising in Montreal in Starke's Montreal Pocket Almanac and General Register for 1849 (Pp. 40-41) includes Henry H. Judah and Thomas S. Judah as well as A.M. Hart, M.S. David, Moses E. David, and Gershom Joseph.

HART vs. BOWEN

Probably the most vivid and dramatic instance of the position of Lower Canada Jews in society and in the legal profession was set on foot by young law student Adolphus Mordecai Hart when, in 1836, he attacked one of the legal luminaries -- a future chief justice -- in the highest arena of the colony, its parliament. (D. Rome. Jews in Canadian Literature. 2 editions; and D. Rome. "Adolphus Mordecai Hart," in Dictionary of Canadian Biography)

Judge Edward Bowen, privileged by family and social links and by a considerable talent, became one of the high functionaries of the colony which, together with the English merchant bourgeoisie, monopolized the executive power, much of the legislative power and state patronage. (J.-P. Wallot in Dictionary of Canadian Biography.)

The son of an English army doctor, he came to Canada at the age of 17 in 1797 and studied law in the offices of John Caldwell whose wife was a great-aunt of Edward Bowen, and of Johnathan Sewell. The year he was admitted to the bar, in 1808, he was named attorney general, and won the Sorel seat in the colony's legislative assembly in 1809. Three years later he was appointed Judge of the King's Bench and enjoyed many other lucrative posts. (Encyclopaedia Canadiana)

Incidentally, Judge Bowen had been one of the judges on the Court of the King's Bench who heard the plea of Adolphus Mordecai Hart's aunt, Mrs. Moses Sarah Hart, for separation de corps from her husband in 1816. (R. Douville. "Années de jeunesse", in Cahiers des dix, no. 23, 1958, P. 204)

The young son of Ezekiel Hart already had a record of championing Jewish and human rights when he bearded one of the formidable figures in Lower Canadian judicature. Four years earlier, he had been involved when the law removing the legal shackles from the Jewish citizenry -- the same one which had

cut the political career of his father in 1807-9 -- was being considered. A little later, when he was twenty, he participated in defending that law when it was under attack from the powerful bureaucracy, until the legislature set up a special committee under Dr. René Kimber to reassert the rights of the Jews and of parliament.

It is interesting to contemplate Hart's motives. Simply stated, the judge did not like the Hart family; Adolphus Mordecai Hart testified to this effect, as did others. As he told the committee on March 2, 1838,

"Had you any conversation with Mr. Justice Bowen relative to Mr. Justice Vallières?--Yes: in or about the month of April last, I had a conversation with Mr. Justice Bowen, in which he expressed his opinion of Mr. Justice Vallières, and observed with reference to a publication in the Newspapers, that as I had cause to complain of the conduct of Mr. Justice Vallières, the only Tribunal to which I should appeal was the Tribunal of public opinion.

"Had you any difference with Mr. Justice Bowen after that, if so, state the circumstances?--Yes; I understood he permitted himself to use offensive and insulting expressions respecting my relations and applied to them terms entirely unmerited. I cannot consider this conduct as decorous on the part of a Judge as, even if the terms were merited, the Judge was not called upon by the nature of the case, and therefore was not justified in using them.-- I felt this conduct, and knowing that the Judge had acted illegally in proceeding to the Eastern Townships to hold the Court there more frequently than the Law permitted him, I wrote against him and appealed to the Tribunal to which he had advised me to appeal on the previous occasion, viz:--'The Tribunal of Public opinion.'-- His sons then interfered, and I learnt from several members of the Profession who well knew the vindictive spirit of Judge Bowen, that he would be revenged against me by preventing my being admitted to the Bar.--For these reasons, and also because one of the Judge's sons, by an expression which he used, confirmed the opinion which I entertained, that he had come to that determination. I believed it to exist. I knew that the Judge possessed the power, and knowing that his conduct was generally complained of as partial and corrupt, I presented my Petition to the House that the Country might judge of his behaviour..." (Appendix EE to Journal of Assembly, 1836)

But the circumstances tell more. Judge Bowen was clearly a tyrannical person, seldom pleasant, given to behaviour not always of the highest ethical character, certainly not always courteous. A powerful man, he had gone far out of his way to make many enemies whom he treated more badly than the Harts. They seem to have used the Jewish law student as their cat's paw.

What is important in our consideration is that Hart was aware of that and was prepared for the risks, and wanted to attack the enemy of the family. It speaks of pride, aggressiveness, confidence and self-confidence -- at a date just past legal emancipation of Jews in Canada, and in the U.S.; not yet attained in Great Britain, and only recently out of the European middle ages.

Those were activist decades in Canadian Jewish history.

Hart's case seemed a weak -- at best an exaggerated -- base for impeachment. Yet in effect Hart won his case, and only a revolution and suspension of the constitution, and his agility, saved the distinguished man of the bench from ultimate disgrace and ruin.

But the proceedings speak eloquently of the ease of the Jewish citizenry and of its several lawmen in the highly structured legal society. The fact that a Jewish lad could institute the proceedings so early in Canadian emancipation, indeed in the liberation history of the Jewish people, is remarkable. So also are the tiny vignettes we have documenting the moment-by-moment relations of Jews and other Lower Canadians.

The campaign began in the press when "Justitia," who is later identified as young Hart, in Nov. 1835, wrote a letter from Lennoxville to the Vindicator which also appeared in the Mercury.

The writer commented on a bill before the legislature to consolidate the administration of justice in the Inferior District of St. Francis and proposed that the justices of the Court of the King's Bench for the district of Montreal and Quebec should alternately have jurisdiction over the St. Francis district. "Justitia" explained,

"This alternative has become necessary in consequence of the frequent visits of that high legal functionary, the ci-devant Speaker of our Legislative Council, Mr. Justice Bowen, to this part of the country. I assert from undoubted authority that it would afford much more satisfaction to the suitors of our inferior court if the spirit, not the letter, of the law were attended to, and that Mr. Justice Bowen were satisfied with the jurisdiction which is given to him to preside in his task upon the Bench of our district. I moreover take the liberty of asserting that the proceedings of Mr. Justice Bowen shed abundance of light upon the transaction between father and son, and is not altogether unconnected with the circumstance of Mr. Frederick Bowen having taken up his residence among us, and the nomination of Mr. Justice Bowen's son-in-law to the office of Prothonotary of the district." (Vindicator, Nov. 30, 1835)

(It is presumably the same person subscribing himself "Justitia" the same month who entered the public debate on the Constitutional Association which was very active at this time.

(So "Justitia" also wrote a letter to the Quebec Gazette on Dec. 2, 1835, also reprinted in the Mercury,

("Various observations reflecting on the Constitutional Association of Quebec and on the commercial and trading interests have lately been attributed to one of the Royal Commissioners.

("Nothing is more easy for designing persons having a particular object in view, and being regardless of this truth, than to impute remarks to an individual who, from his situation, has not the means of contradicting them which, under other circumstances, would be at his command.

("The publicity of the proceedings of the meeting held on Saturday evening at Payne's Hotel has at length enabled those who know the falsehood of the reports in circulation to come forward with a formal contradiction of them.

("I avail myself therefore of the opportunity to state from the best possible authority that the observation said to have been made by one of the Royal Commissioners in respect of the Constitutional Association, and to each of its members as are engaged in commerce and trade, are wholly unfounded, and that he never directly or indirectly made use of the experience imputed to them.")

The same issue of the Mercury also carried a response from Charles Frederick Bowen, dated Dec. 7, 1836,

"If 'Justitia had taken the trouble to look into the records of the Court, he would have found that the Judges from Quebec and Montreal had, in fact, hitherto sat alternately -- a Judge from Quebec taking the summer circuit, and a Judge from Montreal the winter one, being only one-half of the distance.-- Under the pretext, however, of consulting the public interest, 'Justitia' has thought proper to assert 'that this proceeding of Mr. Justice Bowen sheds abundance of light upon the transaction between father and son, and is not altogether unconnected with the circumstance."

But "Justitia" did not let this stand. In the same issue of the Vindicator he wrote,

"To 'Justitia' who is so intimately acquainted with the movements of Mr. Justice Bowen, and who has seen him so frequently preside within the precincts of that Court, which, he would fain make your readers believe, he attends but once every two or three years, the foregoing creates neither surprise nor astonishment. It may, however, be interesting to the numerous readers of the Vindicator to be informed that the paragraph (cited immediately above) is nothing but a tissue of falsehood from one end to the other.

"The subscribers to your Journal may not know who this Mr. George Frederick Bowen is, and I will therefore again elicit the evidence of his mendacity and his bold attempt to practise a system of deception upon the public, in a case too, in relation to which, if all the facts were developed, another public officer might be found altogether unworthy of the station to which he has been elevated. This evidence, I shall, if he have any candour in him, extract from his own confession.

"Pray then, let me ask of him whether it is not a fact, an undeniable,indisputable fact, that Mr. Justice Bowen has presided in the Circuit Court of the Inferior District of Saint Francis, in the autumn of the years 1831, '32, '33, '34, and '35, and that he was also in attendance there in his judicial capacity, in the winter of the years 1832, '33, '34, and '35? Again; whether the 'Judge from Quebec', referred to in the communication of Mr. George Frederick Bowen, as having taken the summer circuit at Saint Francis, has not invariabily been the Honorable Edward Bowen, one of the Puisne Justices for the District of Quebec?

"These questions,if fairly answered, will set the matter at rest; they will shew that Justitia need not 'take the trouble to look into the records of the Court,' and that, in fact, the Judges from Quebec have not sat alternately in the Circuit Court of the Inferior District of Saint Francis.

"To another part of Mr. George Frederick Bowen's letter, I now direct my attention. That gentleman is again in error, if he believes that I have not a right to canvass the public acts of any judicial officer, without first obtaining his permission.

"Public men and especially judicial officers must expect to have their acts canvassed. If therefore the 'despicable insinuation,' which I have thrown out, be construed into an animadversion on a private individual, the examination of the public acts of any judicial officer must, for the future,be dispensed with.

"Mr. Bowen regrets that 'Justitia' should have been concealed by a signature to which he has no claim, (the writer would have willingly removed the evil if he had nothing to fear "propter iram memorem serae junonis") and looks upon his letter 'as a base and cowardly attack,' but he does not say upon whom, whether upon the father or the son, and considers it to be 'without the shadow of foundation,' which will be more satisfactorily proved, when we shall have obtained his answers to the preceding queries.

"In fine, this 'wise man of Gotham,' ascribes 'the production of the letter to one to whom the title of calumniator is infinitely more appropriate than that of 'Justitia'

"'Justitia' flatters himself that he is no calumniator -- He bears no ill-will either to Mr. Bowen or his family, and is sure that he has exhibited no bad feeling towards the one or the other -- He has merely discharged a duty which he owed to the public and which, if he had failed to perform, he would have been deserving of much more censure than what has been prematurely cast upon him. However inappropriate he may be the title, he again subscribes himself, 'Justitia'."

The judge himself wrote to the editor in self-defence, and unveiled the name of his antagonist.

Noting that Hart had asserted that "the judge has been in attendance in his judicial capacity, at the Circuit Court of the District of St. Francis, 'in the winter of the years 1832, 33, 34, 35,' and upon the answer to which 'Justitia' rests his title to credibility, permit me to reply, that Mr. Justice Bowen never was in attendance in his judicial capacity, in that Court, during the winter Circuits, nor in fact, has he ever even visited the Eastern Townships in the winter season; the assertion of my brother, 'that the Judges from Quebec and Montreal had, in fact, hitherto and alternately, a Judge from Quebec taking the summer Circuit, and a Judge from Montreal the winter one,' being perfectly correct.

"From the extremely violent nature of the articles in question, and more particularly from their bearing date in a village within two miles of Sherbrooke, the place of my brother's residence, and purporting to be written by a member of the Bar of the District of St. Francis, I was determined to discover the author of so base and cowardly an attempt, first to injure the reputation of two members of my family, and next to cast a suspicion of the authorship upon some member of the Bar, practising at the Court of St. Francis. Having obtained from the Editor of the Montreal Vindicator all the information he possessed upon the subject -- for which he is entitled to my thanks -- I have found out that 'Justitia' who 'would willingly have removed the veil' i.e. given his name 'if he had nothing to fear, propter iram memorem serae Junonis,' and who 'flatters himself that he is no caluminiator' who 'bears no ill-will to Mr. Bowen or his family'! who is 'sure that he has exhibited no base feeling towards the one or the other,' and who 'has merely discharged a duty which he owed to the public,' is no less a person than --

"Adolphus Mordecai Hart, of Quebec, Student at Law.

"As it would be doing the young man an injustice to permit the public longer to remain in ignorance of its champion, I shall feel obliged to any of your brother editors who will give publicity to this letter." (Vindicator, Jan. 8, 1836)

Hart responded in the same issue,

"If I have been instrumental in aiding the laudable and praiseworthy exertions of the Editor of the Vindicator, by exposing the public conduct of persons in office in this country, the publication of my name on this occasion will have more than satisfied me. I believe you will give me credit for the sincerity of my intentions in bringing under the notice of your readers the manifestly illegal conduct of a high judicial officer; you will know that I have acted under an honest conviction, and believe that I have asserted nothing but what I am ready to prove is true and correct. From the frequency of Mr. Justice Bowen's visits to the Eastern Townships, I was under the impression that he was in attendance in his judicial capacity at the Court of Saint Francis, during the summer as well as the winter circuits. Such continues to be the impression under which I labour -- no proof has been adduced to the contrary. When Mr. Bowen considers me speaking harshly of his public conduct, I have no reference to Mr. Justic Bowen or Mr. George Frederick Bowen in their private capacities -- I have neither assailed their private characters nor attempted to injure the fame or reputation of any member of their family. I repeat again that I have merely discharged a duty which, if I had failed to perform, I would have been deserving of all the censure that I have already incurred. Permit me further to say that against every public officer who does not act uprightly and honestly in the discharge of his official duties, my hostility, whether in youth or manhood, will continue to be as unqualified as it will be unceasing." (Ibid.)

On Jan. 7, 1836 "A Petition of Adolphus Mordecai Hart, of the City of Quebec, was presented to the House by Mr. Gugy, and the same was received and read; setting forth: That the Honorable Edward Bowen, one of the Puisné Justices of His Majesty's Court of King's Bench for the District of Quebec, is notoriously a partial, violent and corrupt Judge; that he has during a series of years been guilty of flagrant abuses of his Judicial authority; that he has oppressed divers of the suitors who had applied to the said Court for justice; that he has pronounced opposite Judgments in cases similarly situated, and that these Judgments are clearly ascribable to his partiality for his relatives and friends, and to his personal animosities towards others of the said suitors; that he has by such gross violation of the Law subjected divers of His Majesty's subjects to enormous and ruinous expenses, and injuriously affected the character of the Administration of Justice: By reason whereof His Majesty's subjects repose no confidence in the tribunal in which the said Judge presides: That the Petitioner is prepared to specify and prove by competent testimony, a great number of instances of gross misconduct on the part of the said Judge in his Judicial capacity; and that for the relief of the Petitioner as well as of divers others of His Majesty's subjects, the Petitioner humbly prays that an investigation may be instituted into the public conduct and character of the said Judge."

The Assembly ordered that "the said Petition be referred to the Standing Committee of Grievances. That it be an Instruction to the said Committee, to enquire into the public character and conduct of the Honorable Mr. Justice Bowen." (Journals of the House of Assembly of Lower Canada, Oct. 27, 1835 to March 21, 1836. P. 336)

This was merely the beginning of the affair.

Those concerned with the merits of the adjudication by the committee of the Assembly may note that Gugy was inveterately hostile to Judge Bowen. This repeatedly emerged at the hearings over which he presided, where he often posed leading questions, especially where the witnesses were pleased to be led.

When Mr. Gugy testified against Bowen, particularly criticizing his conduct in a case involving J.J. Duval, he referred to Hart's testimony before the committee in support of his views.

He told clearly why he sponsored Hart's petition, thereby possibly explaining why Hart took the action he did.

"Why did you not impeach him? -- I must admit that I should have considered of it had I not already been concerned in an impeachment, but I was dissuaded by the labor and odium attending such a proceeding, even when, as in a recent case, the result is favorable to the prosecutor. The large family of Mr. Bowen was not without its influence on my conduct, although it must be allowed, that his having a family gives him no right to injure mine or that of any other suitor. I mean to say, that anticipating all I should have had to contend against, with a man of Judge Bowen's numerous connexions, I chose the lesser evil. The pecuniary loss and the personal indignity seemed to me to be less than the evils incident to a public prosecution, and I preferred the former, although the complaint against the Judge were numberless, and although I was exhorted to prosecute by many men who now affect to deprecate the proceeding. This was so much my disposition that I think I mentioned it to a particular friend of Judge Bowen. I must add that I did not then know that the Judge carried his rancour into private society, as detailed by Mr. Justice Vallières; and as the Judge had taken the pains spontaneously to offer me a mark of respect which a Gentleman would not offer to one of whose conduct he disapproved, I hoped that I could by withdrawing from the practice of the Profession, buy my peace; and I therefore resolved on doing so.

"Why then did you present Mr. Hart's Petition? -- Because I not only believed it to be well founded, but because I felt that Mr. Justice Bowen was a man who would stop at nothing to ruin Mr. Hart, or any other man who crossed his path. This, and the conviction that Mr. Bowen had the power to do so, and would exercise it -- and my hearing that the first step taken would be to prevent Mr. Hart's being admitted to the Bar, all conspired to induce me to present the Petition, in the independent discharge of my Parliamentary duties."

The brief testimony of Advocate Charles Hunter illustrates the encouragement given to A.M. Hart,

"You have stated that Mr. Justice Bowen had his favorites; is Mr. T. C. Aylwin one of his favorites? -- Yes, he was certainly one of his favorites.

"Did you hear Mr. T.C. Aylwin express an unfavorable opinion of Judge Bowen? -- Yes: one evening I met Mr. Aylwin at Mr. Hart's the Petitioner, he urged Mr. Hart to prosecute this enquiry against Judge Bowen; he offered to give, and did give, several instances of the Judge's misconduct to enable Mr. Hart to prove that the Petition was well founded. I recollect he recommended Mr. Hart to bring up Mr. Burroughs among other witnesses. Mr. Aylwin was very warm, and the tenor of his language on that occasion was, that he entertained a very unfavorable opinion of the Judge. I do not recollect other particulars, though he cited three or four cases."

The accusation, and even more the instance where it was levelled, called for a strong defence -- itself a tribute to the accuser.

Judge Bowen prepared a petition in response, which he proposed to place before the Legislative Assembly, but even before it reached the lower chamber the Hon. Mr. Cuthbert, on Jan. 25, 1836 presented a petition from Judge Bowen to the Legislative Council "for leave to lay his petition before the House of Assembly, and to answer an accusation preferred against him in that House by Adolphus Mordecai Hart." At the time it was ordered that "the same do lie on the Table."

The following day the Council took up his request, and his plea was read in the following words,

"To the Honorable the Legislative Council, in Provincial Parliament assembled.

"The Petition of Edward Bowen, Esquire, one of the Puisné Justices of His Majesty's Court of King's Bench for the District of Quebec, and a Member of Your Honorable House.

"Humbly sheweth, That a Petition, copy of which is hereunto annexed, was presented to the Honorable House of Assembly, by Adolphus Mordecai Hart, of Quebec, Student at Law, complaining of your Petitioner, which Petition has been referred to the Committee of Grievances of the said House, with an injunction to enquire into the public character and conduct of your Petitioner.

"That your Petitioner is desirous that, before further proceeding upon the said Petition of the said Adolphus Mordecai Hart, he the said, Adolphus Mordecai Hart prepared, as he states himself, to specify and prove by competent testimony, a great number of instances of gross misconduct on the part of your Petitioner, may be ordered and required forthwith to exhibit such specific allegations as may afford your Petitioner some idea of the charges which the said House of Assembly is called upon to investigate, and that thereupon such reasonable opportunities may be offered to your Petitioner to be present and, with Counsel,

if he see fit, to confront the witnesses to be adduced, and put such questions to them as your Petitioner may be advised, for the elicitation of truth and for the preservation of the honor of your Petitioner.

"Wherefore your Petitioner prays that he may have permission of your Honorable House to present the Petition hereunto annexed to the Honorable the House of Assembly, and to answer the accusations against him in the said House, and that your Honorable House will be pleased to take the same into your serious consideration, and thereupon to give such order as your Honorable House in its wisdom may deem meet, and as in duty bound, your Petitioner will ever pray. (Signed) Edwd. Bowen, Quebec, 19th Jany. 1835.

"It was moved,

"That the Honorable Edward Bowen have leave to go down to the Assembly, and to defend himself there, if he shall think fit, on all points on which the Assembly have not previously passed any accusatory or criminatory Resolutions against him.

"And the same being objected to,

"After debate,

"The previous question was put,

"Whether the question shall be now put?

"It was resolved in the affirmative." (Journals of the Legislative Council of the Province of Lower Canada, 15th Provincial Parliament, 2nd Session, 1835-36. P. 195-96)

Accordingly, on Dec. 29 Judge Bowen presented his petition to the Assembly.

"A Petition of Edward Bowen, Esquire, of the City of Quebec, one of the Puisné Justices of His Majesty's Court of King's Bench, for the District of Quebec, was presented to the House by Mr. Bédard (Elzéar Bédard, Member for Montmorency) and the same was received and read; setting forth:

"That the Petitioner during a period of nearly twenty-four years hath discharged the arduous and important duties of a Justice of the Court of King's Bench with unremitting attention and zeal, and he trusts with unsullied integrity:

"That in the course of the same period he has assisted in the hearing and decision of many thousand important cases in the Superior Courts of the Districts of Quebec, Three Rivers and St. Francis, to say nothing of the tens of thousands heard and decided in the Inferior Court of King's Bench whose jurisdiction is not limited to mere personal actions, but also to those affecting Real Estate where the matter in litigation does not exceed the value or amount of ten pounds sterling:

"That within the whole period of twenty-four years the Petitioner hath never absented himself from his duty, with the exception of three months during which he was confined to his House by a severe accident:

"That, in Lower Canada the duties and responsibilities of Judges far outweigh those of Judges in the other British Colonies, for in Lower Canada the Judge, in the hearing and decision of civil rights and controversies, is not assisted by a Jury, (cases of a mercantile nature, and those for wrongs to the person proper to be compensated in damages, and in which at the option of either party a trial by Jury may be had, forming the only exception,) and consequently the whole odium of the party who happens to fail in suit is cast upon the Judge; nor will it be an outrage to truth to suggest that the odium naturally resulting from human weakness and human passions is in divers instances augmented in the bosom of the failing suitor, by the Attorney who may sometimes prefer laying the blame of his own faults upon the Judge, in order that he may himself escape the disapprobation of his client, the professions of Advocate and Attorney being in Lower Canada united in the same practitioners, and are not separate and distinct,

"That the Petitioner has been induced to make these observations not from a desire to find fault with the existing Laws which he has been sworn duly faithfully and conscientiously to execute, but with a view to shew how utterly impossible it is for any man in the most correct and able discharge of those duties not to create animosities and enmities of more or less duration, according to the moral feelings of the persons engaged in litigation.

"That some such excited feelings must have led to the very extraordinary measure which has just been adopted by Mr. Adolphus Mordecai Hart, of the City of Quebec, Student at Law,(and who it is believed has not yet attained the age of majority) by which in his complaint submitted to the House on the seventh day of January instant, the Petitioner being then about to leave Quebec, for the Circuit to Three Rivers, he has charged the Petitioner in general terms, with being a partial, violent, and corrupt Judge, who during a series of years has been guilty of flagrant abuses of his judicial authority, and that the said Hart is prepared to specify and prove by competent testimony, a great number of instances of gross misconduct on the part of the said Judge in his judicial capacity, and prays that for the relief of the Petitioner (the said Hart) as well as of divers others of His Majesty's Subjects, an investigation may be instituted into the public conduct and character of the said Judge:

"That the said Adolphus Mordecai Hart having already grossly and scandalously libelled the Petitioner, his family and connexions, in two certain writings published at Montreal, in the Vindicator Newspaper, under date of the 15th and 24th days of December last, purporting to have been written by some person residing at Lennoxville, in the distant District of St. Francis, in which the Petitioner, for having taken during the absence of one, and the indisposition of another of the Judges, and at his request, the Circuit of St. Francis in the summer of the years 1832, 1833, 1834 and 1835, which it was not only the right but the duty of the Petitioner to do, it is asserted that the frequent visits of that high legal functionary, the ci-devant Speaker of the Legislative Council, Mr. Justice Bowen, to this part of the Country, calls for amendment in what relates to the Constitution of the Court of St. Francis, and that this proceeding of Mr. Justice Bowen 'sheds abundance of light upon the transaction between Father and Son, and is not altogether unconnected with the circumstances of Mr. Frederick H. Bowen having taken up his residence among us, and the nomination of Mr. Justice Bowen's son-in-law to the Office of Prothonotary of this District,' Copies of which publications are annexed to this Petition, as well as of the answer given thereto by two of the members of the Petitioner's family, whose honor and charac-

ter were necessarily involved in such scandalous and false writings, and upon the truth of the assertions that the Petitioner had been in attendance in his judicial capacity at the Circuit Court of the District of St. Francis during the winter of the years 1832, 1833, 1834 and 1835, he, the said Hart, rested his title to credibility, probably little expecting that he should be discovered as the author of the said two scandalous writings, and his name made known, and relying upon the hardihood of his false assertions to obtain belief; whereas in truth the Petitioner not only did not assist at the Court of St. Francis, during the winter of 1832, 1833, 1834 and 1835, but never was within the said District of St. Francis in the winter season, or within any of the Townships during winter:

"That the said Hart finding himself foiled in these his attempts to slander and malign the Petitioner, his family and connexions, has lastly had recourse to another mode of gratifying his unmerited hostility, and has abused the right of petitioning the House, well knowing that by cloaking his real motives under the pretext of laboring for the public good, he will disseminate his poison more extensively and do an irreparable injury to the Petitioner without the fear of being punished:

"That while the Petitioner solemnly protests against the pretension, if such should be entertained by the said Mr. Hart or others, to draw the decision of causes from the competent tribunals of the Country, as established by Law, to a final revision before the House of Assembly, the Petitioner feeling convinced that the House will at once recognize as a principle both just and constitutional, and without the due observance of which Justice cannot be administered, namely, that the Judge in declaring what the Law is should be as independent and as much protected as the Legislator is who assists to make the Law; nor can it be denied that the Judge who errs upon the facts, or even upon the Law of a particular case, is not reprehensible by the Law of France; he is reprehensible only when he has acted from a malicious or interested motive, or has been corrupt, 'per sordes,' taking money or presents to betray his duty:

"That it behoves the Petitioner thus wantonly accused, to request the intereference of the House, and that the said Adolphus Mordecai Hart, prepared as he states himself to specify and prove by competent testimony a great number of instances of gross misconduct on the part of the said Petitioner, may be ordered and required forthwith to exhibit such specific allegations as may afford to the Petitioner, to be present, and with Counsel if he sees fit, to confront the witnesses to be adduced, and put such questions to them as the Petitioner may be advised, to elicit truth, and for the preservation of that honor and character of the Petitioner without which life is

not worth preserving; and that in default of the said Hart presenting such specific allegations within such short period as the House may be pleased to assign, his said Petition and complaint may be rejected with such expressions of disapprobation as conduct so unjustifiable would naturally call for; and the Petitioner lastly claims of the House all such relief as in its justice and wisdom may be deemed right and proper.

"Ordered, That the said Petition be referred to the Standing Committee of Grievances.

"Mr. Bédard moved, seconded by Mr. Power (William Power, Member for the Gaspé), That it be an Instruction to the said Committee to require the Petitioner, Adolphus Mordecai Hart, to specify and articulate the various subjects of complaint which he may have against the said Judge, Edward Bowen, Esquire.

"Mr. Viger (Louis Michel Viger, Member for Chambly) moved, seconded by Mr. Berthelot (Amable Berthelot, Member for Quebec Upper Town), That the consideration of the said Motion be postponed till Monday next.

"The House divided on the Question: Yeas, 29. Nays 24.

"So it was carried in the Affirmative, and Ordered, Accordingly." (Ibid., Pp. 400-3)

On Feb. 1, 1836, "The Order of the day for taking into consideration a Motion made by Mr. Bédard, on Friday last, viz: 'That it be an Instruction to the Standing Committee of Grievances to require the Petitioner, Adolphus Mordecai Hart, to specify and articulate the various subjects of complaint which he may have against the said Judge, Edward Bowen, Esquire,' being read;

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

"On motion of Mr. Gugy (Bartholomew Conrad Augustus Gugy, Member for Sherbrooke), seconded by Mr. De Blois (Joseph-François De Blois, Member for Bonaventure),

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

"The House accordingly resolved itself into the said Committee.

"Mr. Le Boutillier (John Le Boutillier, Member for the Gaspé) took the Chair of the Committee; and after some time spent therein,

"Mr. Speaker resumed the Chair."

The journalism of the day is not always intelligible to later readers.

We can only record that the Vindicator of Feb. 9, 1836 published a short item "communicated" to it,

"The very learned Editor of the Quebec Gazette remarks 'that Mr. Justice Bowen is Petitioner to the Assembly to be heard on totally indefinite charges' made by a boy named Adolphus Mordecai Hart.'

"Shade of Secretan, where art thou? What the man! the editor!! and the duellist!!! speaking of the puerility of any one, even of Adolphus Mordecai Hart? Sam was loathe to use ramrods and percussion caps, but never did he refuse to handle the puerile writings of either Ensign Gordon, or Charles Secretan. No, faith, the ramrods, not the writings were puerile. Would Sam prefer 'an indefinite charge,' to that which 'is defined' by the top of a powder flask? -- Would he consider the image of himself declining a challenge from Adolphus M. Hart as puerile? We pause for a reply."

In due course, on March 10, 1836, "Mr. Gugy from the Standing Committee of Grievances, presented to the House the Thirteenth Report of the said Committee, which was again read at the Clerk's Table.

"Resolved, That it is expedient to continue the enquiry into the public character and conduct of Mr. Justice Bowen, during the ensuing Session of Parliament.

"Mr. Besserer (Louis-Théodore Besserer, Member for the County of Quebec) moved, seconded by Mr. Gugy, That one hundred Copies of the said Report, with the Evidence and Documents therein mentioned, be printed for the use of the Members of this House.

"Mr. Charles Drolet (new Member for Saguenay) moved in amendment, seconded by Mr. Fortin, That the words 'one hundred' in the said Motion be struck out, and the words 'three hundred' substituted.

"The House divided on the Motion of Amendment: Yeas, 21. Nays, 20.

"So it was carried in the Affirmative."

The report of the Standing Committee of the Assembly on Grievances constitutes Appendix EE of the Journals. It opens with the following words,

"That from the advanced period of the Session, at which the enquiry relative to Mr. Justice Bowen was ordered, it has been impossible for Your Committee to bring it to a conclusion. But the facts elicited in the course of the investigation are so important; they bear so much of the impress of truth; they contain so much grave matter which must be laid to the charge of the Honorable Judge, that Your Committee cannot hesitate to record their opinion, that there is room for accusation.

"Your Committee abstain at this moment from submitting to Your Honorable House any matter of more general inference, from the whole body of the Evidence; but they respectfully suggest, that the enquiry be proceeded with during the ensuing Session of Parliament; and to enable Your Honorable House to judge of the propriety of resorting to that measure, they submit the following cases, the evidence of which is sufficient and conclusive..."

The report contains many pages of testimony on the merits of Hart's complaint.

Some of the information is of interest particularly for the light it sheds on the practices of the first generation of Jewish lawyers in Canada. So for instance, Aaron Ezekiel Hart testified,

"How long have you practised at the Quebec Bar? -- Since November 1824.

"What is the general conduct of Judge Bowen as Judge? -- His conduct generally as Judge in Court and in Chambers, I conceive to be arbitrary and domineering as well towards the junior members of the profession as towards others who, on business have had recourse to his ministry as Judge. Mr. Justice Bowen is in the habit of indulging in frequent personal reflections upon the professional conduct of some members of the Bar, and I may enumerate myself as one of those against whom he has evinced much passion and prejudice. I remember that upon several occasions he made observations which I thought at the time was the result of personal animosity towards me.

"I allude in one instance to a case in which I was concerned, wherein James Hastings Kerr was Plaintiff, and Samuel Newton was Defendant. In that case I filed an opposition on behalf of Ezekiel Hart, there were several other oppositions filed in the same cause: owing to an error which had occurred by reason of an entry made in the Prothonotary's Roll, in placing my name down instead of that of Mr. Montizambert, I rose in my place to explain to the Court how the error had occurred. Mr. Montizambert addressed the Court at the same time, when Mr. Justice Bowen interrupted me by saying 'Then hold your tongue, this case does not concern you.' This remark was made in the manner in which it is usual for Judge Bowen to address the junior members of the Bar, and was characterized by the offensive tone which that gentleman usually adopted towards the junior members of the profession.

"Upon another occasion a remark was made by Judge Bowen which was altogether uncalled for -- an opposition afin d'annuller, was filed on the behalf of Alexander Thomas Hart in a cause wherein William O'Brien was Plaintiff, and John Miller and another, Defendants. Although the point which was submitted to the consideration of the Court had no reference whatsoever to the opposition which had been filed, Judge Bowen said 'That a person whom he believed to bear the name of

Hart, having called upon him to swear to an opposition, he warned him not to commit perjury, as he thought he was then doing.' The Attorney then arguing the cause said it has nothing to do with this case.--The Judge recollecting himself said 'Oh! no, it must have been some other person.' This I conceive was an unwarrantable reflection upon the character and reputation of Mr. Alexander Thomas Hart, and was directed against me, in order to wound my feelings, and render my situation, as the relation of Mr. Hart, painful among my confrères at the Bar.

"Do you know of any other facts relating to the conduct of Mr. Justice Bowen as Judge? --

"Yes, I do: soon after I was admitted to the Bar, in November Term 1826, I brought an action on behalf of one Hiram Spafford of Brockville in Upper Canada, against Robert McMillan, a Lumber Dealer, then living at Quebec, for the sum of £5. 17s. 7d. upon McMillan's note of hand written in the following terms:

"'Brockville, 20th November 1817.

"'For value received I promise to pay Mr. Hiram Spafford Five pounds seventeen shillings and seven pence Halifax currency, on demand.

"'£5. 17. 7 Cy. Robert McMillan'

"The service of the Writ (as appeared by the Bailiff's return) was made personally upon the Defendant. On the return day the Defendant made default. Interrogatories upon faits et articles to prove his signature subscribed to the note, were served upon him; he did not appear or make any answer thereto; and the faits et articles being taken as admitted, and my proof in consequence being complete, I placed the cause en délibéré. After which, on the 30th November, Judge Bowen dismissed the action quand à présent, as I know, and as appears by the copy of Judgment now before the Committee.

"I enquired his reasons for so doing -- he said 'the reasons are because I consider the note prescribed according to the provisions of the Statute.' I remonstrated, and told him although the note might be prescribed yet it was incumbent on the Defendant to come before the Court and take advantage of it, which he failed to do, and thereby acknowledged the existence of the debt. I cannot account for the motives which induced Judge Bowen to dismiss the action quand à présent, when, if he considered the note prescribed, he should have dismissed the action finally. How Mr. Justice Bowen can reconcile this decision with those which, under like circumstances, he had before or has since

given, I am at a loss to conjecture. I attribute this decision to the hostility which Judge Bowen has taken no pains to disguise, and which he has so frequently evinced towards me.

"I beg to state to the Committee another instance of misconduct on the part of Judge Bowen. I was desirous of having a Curator named to the vacant Estate of the late Benjamin Joseph Frobisher, deceased, (the former Curator Mr. Keable Serjeant, having departed this life), I assembled the necessary number of friends in default of relations. The application was made to Mr. Justice Bowen in Chambers, with the intention of having Mr. Michel Landry, the Crier of the Court, named as Curator, Judge Bowen rejected the application, upon some frivolous pretext; and to my very great surprise, a short time afterwards I learnt that by the ministry of Mr. Edward Montizambert, Mr. John Davidson, the brother-in-law of Judge Bowen, was named Curator to that Estate. I now produce the acte of curatelle in proof of what I have alleged.

"Do you know whether Mr. Frederick Bowen, son of Judge Bowen, was at any time, and for what time, Clerk to Mr. Robert Sewell? -- I do know that Mr. Frederick Bowen, the son of Judge Bowen, was studying Law with the late Mr. Robert Sewell, Advocate, for the space of two or three years and perhaps more, but I cannot state the precise time.

"Do you know whether the said Mr. Frederick Bowen was a partner of Mr. W.K. McCord? -- Yes, he was.

"Do you know that the late Mr. Robert Sewell at one time was on a particular intimate footing with the family of Judge Bowen? -- It was remarked in Town, and rumour gave it out then that he was to be allied to one of the Miss Bowen's.

"Please to name those to whom Judge Bowen evinces a partiality, as well as those to whom he appears hostile? -- It is generally remarked in Court that Mr. James Stewart the late Attorney General, Mr. T.C. Aylwin, Mr. Edward Montizambert, the Messrs. Bowen, Mr. Edward Davidson, and some others, are particular favorites of Judge Bowen. No animosity or angry petulant expressions are made use of towards them, nor are they interrupted in their arguments although the same may be tedious, verbose, prolix, irrelevant and impertinent; whilst others less favored are subject to frequent, unnecessary and improper interruptions; and even Mr. William K. McCord was a favorite with the Judge when in partnership with Mr. Frederick Bowen, but since the dissolution thereof, he has evinced the greatest hostility to that gentleman. It is frequently said among the members of the Bar that Mr. T.C. Aylwin is particularly fortunate in having the good will of Judge Bowen on all occasions, and is generally successful in all his causes.

"On the other hand I have seen Judge Bowen shew the greatest contempt and hatred for Mr. Gugy, Mr. A. Taschereau, Mr. Charles Drolet, Mr. Hunter, Mr. Dickinson and several others. Judge Bowen's remarks in rendering Judgment against Mr. Gugy in the cause of Madame Caron, were in my opinion, as well as in that of many members of the Bar, uncalled for and harsh in the extreme, and not at all applicable to the question at issue in the cause. It was moreover rumoured in Court, on the rendering of that Judgment, that Madame Caron was a particular favorite of Judge Bowen's although I have heard it said so long before that period.

"Is Mr. Montizambert understood to be, on a particularly intimate footing with Mr. Justice Bowen's family? -- Yes, that is understood to be the case, and which I believe no one can deny; for it is generally reported that he is to be married to one of Judge Bowen's daughters.

"What were the circumstances of the late William Green, Esquire? -- I knew the late Mr. Green, it was believed, indeed it was a matter of notoriety that for four or five years at least previous to his death, he was in embarrassed circumstances, and when he died his estate was notoriously insolvent.

"Is Judge Bowen understood to exercise much influence over the other Judges? -- It is well known that the influence which Judge Bowen possesses over the minds of the other Judges, and of the Chief Justice in particular, who, by reason of his infirmities physical and mental, is easily worked upon and induced to adopt the opinions of Mr. Justice Bowen, which circumstance is calculated to diminish the confidence of the Public in the pure administration of Justice.

"Have you any proof that your opinion touching Mr. Justice Bowen is not singular? -- The opinion I have expressed of him is universal at the Bar, with the exception of his relations, and those particular favorites to whom he is notoriously partial: I am not acquainted with any exception, but even among these the outward seeming of respect is accompanied at least in one instance by a conviction of the utter worthlessness of the Judge. I speak of T.C. Aylwin, Esquire, one of those who certainly are most indebted to the partiality of the Judge; that gentleman having taken the trouble to call upon the Petitioner, my brother, to urge him to prosecute the enquiry against the Judge. Among other things, Mr. Aylwin said 'that the misconduct of the Judge was very flagrant,' and he pointed out

several cases in proof of that opinion; among those which I remember is the following: he said 'that Mr. Gugy had one day passed the Judge without bowing, at which the Judge was so displeased that he turned round to Mr. Allsopp, who was walking with him, and said 'is that Gugy, he has cut me, I will make him pay for it.' Mr. Aylwin also recommended that Mr. Burroughs should be brought forward to prove that he had lent the Judge money, and that Mr. Edward Bowen, the Judge's son, should also be brought up before the Committee to prove that in the capacity of Attorney for Lord Aylmer in a case in which His Lordship was prosecuted by a servant maid named Charlotte Harvey, for wages, he Mr. Edward Bowen had conversations with Judge Bowen on the subject of that suit. I do not give these instances either because I knew of them personally, or because I considered them as relevant to the case, but as proofs of the bad opinion entertained of him by Mr. Aylwin, one of his favorites; but I may be allowed to say that if the Judge used the threatening language towards Mr. Gugy which is ascribed to him by Mr. Aylwin, upon the information of his friend Mr. Allsopp, the Judge has kept his word; and I now have a key to his conduct towards Mr. Gugy.

"Have you not remarked a certain esprit de corps among the Judges under the influence of which they shield each other from the effects of their blunders or misconduct? -- Yes, certainly; no man who frequents the Courts can doubt it."

Henry Judah testified when questioned,

"Have you practised in any and what Courts in which Mr. Justice Bowen has presided, and for what time, and please to say what his general conduct and character as Judge have been so far as you have been enabled to observe? -- I have practised in the District of Three-Rivers since May 1829. Mr. Justice Bowen is in the habit of attending the sittings of the said Court; latterly he has attended more frequently than the other Judges. As President of the Court he is frequently in the habit of interrupting the Gentlemen of the Bar, not always in the most gentlemanly style. On some occasions I have heard him make remarks highly improper and not at all called for.

"On one occasion in particular, in March last, in the cause between Houisson and Dickson, a cause of considerable importance, I, as Counsel for Dickson, was forced to desist from arguing the suit and had taken my seat, owing to Mr. Justice Bowen's unjust remarks and overbearing conduct, allowing the case to go en délibéré

without having urged many of the reasons in support of the defence. This case was decided against Dickson, and I verily believe, without having been fully heard;he is much in the habit of imagining fraud and bad faith, and charging it upon one of the parties to a suit when it is neither pleaded nor proved. On several occasions in which I was concerned, he has frequently by his petulant interruptions and rude personal remarks hindered me from performing my duty, and deprived the party whom I represented from being fully and impartially heard. I can state without fear of contradiction that there are but few junior Members of the profession who are not discouraged by the frequent interruptions and personal remarks which he is in the habit of indulging in. That is his general conduct on the Bench.

"Please to declare whether or not there was anything in your conduct to justify any expression of anger on the part of the Judge, in the case of Houisson and Dickson? -- No; I had scarcely commenced the defence, and had made no observations which could possibly give offence or rise to the remarks.

"Were you the Counsel retained by the Magistrates in a certain case wherein they were parties upon an application made by Mr. Justice Vallières de St. Réal to obtain a Writ of Certiorari? -- I was.

"Were you present when Mr. Justice Bowen pronounced his judgment in the case? -- I was.

"Did he make any personal allusion to Mr. Justice Vallières de St. Réal or to his conduct, and if so, to what effect were his words? -- Yes, I recollect that Mr. Justice Bowen stated on that occasion that Mr. Justice Vallières de St. Réal being the highest judicial authority in the District, ought, when called upon by the Magistrates, to have explained his conduct. I cannot recollect the words, but the impression on my mind is that on that occasion he censured the Judge for his conduct before the Magistrates. I then remarked the difference in the tone and manner of the Judges, -- the Chief Justice and Mr. Justice Gale appearing cool and dispassionate, and making not the slightest allusion to the merits of the case; but there was a degree of bitterness in the personal allusions to the prejudice of Mr. Justice Vallières de St. Réal which were made by Mr. Justice Bowen, though all the Judges agreed that the merits of the case were not within their reach. From the expressions which fell from Judge Bowen on that occasion, the general impression among persons not connected with the profession, was that the judgment of the Magistrates had been confirmed and approved of...

"You say that Mr. Bowen made remarks not called for, what were they, and to whom addressed? -- When I mentioned that Mr. Bowen was in the habit of making impertinent and uncalled for remarks, I alluded particularly to myself, although I have heard him make use of similar remarks to other Members of the Bar. I cannot state the precise words, but I am quite positive that his manner and tone on the occasions I have already alluded to were impertinent and uncalled for.

"If they had been of a serious nature would you not have remembered them? -- No, I cannot be expected to remember the words, more particularly since the last time Mr. Bowen attended the Court in Three-Rivers, in September last, not expecting that I would have had occasion to repeat them. Although I cannot state the precise words used, I cannot forget his animosity, because he takes every opportunity of making me suffer by depriving me of costs to which I am of right justly entitled to. I am induced to form this opinion, first: from his refusing to assign reasons, and because, he had granted costs in cases perfectly similar and differing in no respect from my cases. I give the following instances: In September last Mr. Justice Vallières de St. Réal not attending Court, costs were refused me on an action dismissed, Gouin vs. Ross, the Plaintiff prosecuting in formu pauperis. In a case of Plouff vs. Beaudrie also in formu pauperis, Mr. Justice Bowen, President of the Court, but assisted by Mr. Justice Vallières de St. Réal, dismissed the action, but with costs. In September last I was also refused costs on an exception dismissed in an action of Larivièrere vs. Noel: if the proceedings in this case were produced before the Committee, it would appear a most glaring case of partiality; this case was admitted by the Court to be a most favorable case for the Plaintiff, and no reason whatever in fact could be assigned for withholding costs. To any of the Members of the Profession who may have practised before the Court presided by Mr. Justice Bowen, assisted only by Mr. Justice Gale, it would not appear surprising that I attribute these decisions to Mr. Justice Bowen, and not inculpate Mr. Justice Gale in the least, the influence over the latter being very visible. I attribute Judge Bowen's animosity chiefly to some remarks that I made in a cause of Laforce vs. Vallières. I obtained the information from one of the parties who informed me that Mr. Bowen considered my conduct on that occasion very improper; I also recollect Mr. Bowen giving Judgment in that case, and in his usual style severely reprimanded me for what he considered highly improper conduct. This conduct of mine consisted in citing a precedent from memory with some slight inaccuracy. I can

mention to the Committee a cause of Blackwood vs. Frigon, instituted in our Court some few Terms past; the object of the Defendant being chiefly to obtain delay, had allowed the delay to plead to expire. I moved the Court, presided by Messrs. Justice Bowen and Vallières de St. Réal, to proceed exparte; Mr. Justice Bowen considered the Plaintiff entitled to his motion, and Mr. Justice Vallières de St. Réal being of a different opinion, the cause was continued till the following Term, when Mr. Bowen having forgot his opinion expressed in the preceeding Term, concurred in opinion with Mr. Justice Vallières, and ridiculed my view of the case, and the motion was accordingly dismissed; this fact with others leads me to believe he is not actuated in his decisions by any fixed principle."

As we have seen, the Legislative Assembly had decided to hear the complaints of the young Jewish lad against a powerful and respected judge, its committee held protracted hearings and submitted a first report.

It was a tentative, incomplete report which went out of its way to state that there was room for the accusation. The committee was ordered to continue its investigation.

The judge was saved by a rebellion. In the dangerous days of 1837-38 the entire government was suspended, the legislature and its committee with it. When the air cleared in 1840, Lower Canada no longer existed in its earlier form; a Canadian confederation of Upper and Lower Canada was in existence. In the revolution Judge Bowen's problems were forgotten.

ANOTHER LOYALTY

The loyalism of Lower Canada's Jews to the established government of the colony is well known.

But the coin has another side, possibly with Trois-Rivières as its locale.

Some of this is alluded to in Joseph's diary. He notes the "election for member from Lower Town, in place of Vaufelson who resigned. Connoly said he as a Papinete and an O'Connalite, in favour of the 92 Resolutions. Munn, a Conservative; Mr. Turcot spoke in favour of Connoly. Result: Munn won after a stormy week of polling, to July 6th.

"A.E. Hart and I.C. Hart seem to take a very active part on Connally's side."

As B.G. Sack records this history in his History of the Jews in Canada, from the Earliest Beginnings to the Present Day (Montreal. Canadian Jewish Congress, 1945. Pp. 120-22)

"At the time of the outbreak of the 1837-38 Rebellion there were scarcely two hundred Jews in Canada, possibly fewer. As Canadians, whatever their attitude to the principles involved, they could clearly not remain aloof. Only a few years had elapsed since they had gained equal political rights. Well did they remember the long and arduous struggle, the many bitter years of strife, the violent campaigns in the press, in Parliament and in politcal circles generally until their goal was attained. One of Lord Aylmer's last official acts had been to approve the bill adopted by the Quebec Legislature to confer equal rights on the Jews. They could not help but feel deeply grateful to the governing body and to Britain for the liberal treatment they had received.

"At the same time they could not forget that exceptional circumstances, directly related to the abnormal conditions now prevailing in the country, had made it possible for them to attain equal rights in Canada far earlier than in England. They could not forget that it was due to the support of the French-speaking majority in Parliament led by Louis-Joseph Papineau that they had won equal British citizenship in Lower Canada.

"Consequently, when the atmosphere grew pregnant with impending unrest, when belated but powerful echoes of the French Revolution and the American War of Independence reverberated ominously throughout the country, Jewish sympathies were divided. It would be false to assume, as it generally is, that the Jews took part only on the Loyalist side. To the extent that they saw truth and justice in their demands, many of them sided with the French Patriots. This was particularly true of those who happened to reside in the wholly French-speaking sections of Lower Canada. Nor, having to take into account the feelings and sentiments of those amongst whom they lived, could they have done otherwise.

"The great majority it must be stressed, did not fail in their duty to the country which, by granting them freedom, had given them sufficient reason to feel both allegiance and gratitude. English Jews for the most part, at the first threat of rebellion they immediately rallied to the loyalist ranks and took their stand with those who fought to keep Canada within the Empire. Insofar as their small numbers permitted, they figured prominently in the events of 1837-38. Their names are linked with important military operations and with every undertaking in defence of British interests. No wonder then that the English were favourably impressed with their conduct. They were included in many of the hastily-organized battalions of loyal citizens. At many important points they were connected with the high command and with the main military guard. Several Jews even commanded militia detachments in engagements with the rebels. The courage and patriotism they exhibited in helping to suppress the rebellion won them great favour with Sir John Colborne, the military commander-in-chief, who was charged with restoring order in the country.

"On November 7, 1837, Captain Eleazar David was ordered to patrol the streets of Montreal at the head of a detachment of cavalry. This was after the city had been the scene of a bloody encounter between the English 'Constitutionalists' and the French 'Sons of Liberty,' and it was feared that the disturbances would assume a more serious character. David's task was to prevent any further clashes.

"On the 10th of November Lieutenant Moses Samuel David was dispatched to St. John with cavalry to arrest the leaders of the rebellion there."

Abraham J. Arnold notes that "in the 1830's the Jews of Montreal were clearly allied with the English loyalists as the Patriote movement of the French Canadians moved from reform to rebellion. In Trois-Rivières, however, where one branch of the Hart family continued to reside, the Jews showed some sympathy for the grievances of the reformers and patriotes.

"The different attitudes of the Jews in the two centres probably arose from their differing perceptions of how they had achieved political equality earlier in the decade.

"Benjamin Hart, one of the two Jews named as magistrates in Montreal on the eve of the rebellion, had been unable to take this appointment previously because of the oath problem. He was undoubtedly grateful for the royal intervention from London by which he finally won his post, and he demonstrated his loyalty by his official actions against the rebels during the outbreaks in Montreal.

"What is not fully known is the role played by Samuel Becancour Hart, who became a magistrate in Trois-Rivières three years earlier because of the more liberal attitude of the French Canadian oath commissioner, Joseph Badeaux.

"There is evidence to show that S.B. Hart found himself allied with the French members of the magistrates' court. Before the first session of the court opened in October 1833, the sheriff, I.G. Ogden, had apparently canvassed some of the other members for their opinions as to whether any obstacle existed to prevent Hart from taking his seat. The only firm opinion reported is that of Judge Vallières, who said Hart had a right to take his seat. At the opening session, all the magistrates were asked to take the oath except Hart who had already done so. The oath still included the words 'on the true faith of a Christian'. When it was Judge Vallières' turn he said: 'I see no objection in taking this oath, but I declare before all, that this oath is not according to law.'

"This was clearly a public affirmation by the French member of the right of individuals to take the oath according to their own conscience.

"In February, 1834, when Samuel B. Hart was called upon to give evidence on this question before a special committee of the Assembly (the Kimber Committee), one of the items submitted was a letter he had written to the attorney general, C.R. Ogden. In this letter Hart charged that A.G. Ogden was involved in 'those frequent acts of oppression and injustice which have been committed towards me, while I have been endeavoring to counteract the intention and to avert the designs of persons whose constant aim it has been to exclude me from the enjoyment of my rights as a British subject...'

"The Kimber Committee found in favor of Samuel Hart's course of action at Trois-Rivières, but this did not help the cause of the Montreal Jews for whom nothing was done until the eve of the rebellion in the summer of 1837.

"Samuel Hart was supported in his position before the Kimber Committee by other members of his family in Trois-Rivières. This lends greater credence to accounts of their activities in sympathy with the patriotes during this same period." ("In 1837, Quebec Jews were Split as to Allegiance," in Canadian Jewish News, May 20, 1977)

A.E. Hart and I.C. Hart seem to have been very active in the Quebec Lower Town elections during the summer of 1837 to elect a successor to Vaufelson, resigned. They supported Connally who called himself a Papiniste and favored the 92 Resolutions. His opponent Munn, a Conservative, won. (Abraham Joseph Diary, June 28, 1837)

Like other trifluvian Jews, Henry Judah was openly and strongly on the side of the Patriotes, quite unlike their Montreal cousins and fellow-Jews. Indeed, Hervé Biron records that"at a revolutionary meeting held in Three Rivers on April 20, 1834, Moses Hart, Ezekiel Hart's brother, and Henry Judah, an advocate in that city, arose to deliver fiery revolutionary speeches. Both condemned the regime in Quebec for its bureaucratic methods and its abuse of power. Coming as a distinct shock to the entire audience, their words demonstrated how closely they were allied in sentiment with the revolutionary movement. This was at a time when the entire French-Canadian intelligentsia was indoctrinated with the democratic slogans proclaimed by Papineau and his friends. Strongly idealistic, they dreamed many dreams." (Cited by B.G. Sack, Pp. 123-24)

Moses Hart seems to have been a faithful subscriber to the papers of Ludger Duvernay. The family papers at Trois-Rivières include receipts for the Gazette des Trois-Rivières (1817-20) Le Spectateur canadien (1818), Le Constitutionelle (1823-24), L'Argus (1826) and the Canadian Spectator (1827-28)

The Montreal Jewish loyalists were probably shocked to see a Hart in the circle of the friends of Edouard-Etienne Rodier. Rodier, a supporter of the Patriote cause, fled to the United States after the uprising of 1837 and hid at Swanton and vicinity as, indeed, did Ludger Duvernay. Both were members of an executive committee which planned to invade Lower Canada. (Ivanhoe Caron. "Une Société secrète dans le Bas Canada," in Transactions, Royal Society of Canada, 1926, 3rd series, vol. 20, Sect. 1, Pp. 17-18)

Rodier was one of the anti-Jewish Canadians who joined the Frères chasseurs, a conspiratorial military group formed for this end.

Yet the name of a Hart appears in the Rodier correspondence. On Apr. 1, 1838 he wrote from Burlington to Ludger Duvernay at St. Albans,

"You were right to deny that I had spoken to Stuart against Papineau; his name was never mentioned in our conversation and it never arose between us either directly or indirectly. Nevertheless, I admit in confidence that I am subject to reproach on this matter in a nearly similar case. I believe that I told Hart or Sweeney that I consider Papineau a poltroon, and that but for him we would be in Canada. I am telling you what I believe, but I should not have said this to one of our political enemies.

"It came in reply to an observation that we could not resist the power of the British, and I was in such a bad humour that it slipped from me. Nothing can be more true than that with some energy and skill in taking advantage of the sympathy of the time, Papineau could have led us triumphant across Canada. I have perfect evidence to prove this.

"You will note that I did not enter into any further explanation on Papineau after these comments, for I felt at once that I would be compromised; for by indicating that Papineau would not support our plans, I would be indicating that we entertained them, for which I would doubtless be called to account."

The name of Hart occurs again in a letter from Louison (Lorimier) to Edouard Rodier, July 13, 1838, about Rodier's possessions in the hands of various friends.

"I saw Hart and asked him to turn over to me your assets which were in his hands so that I may dispose of them in the manner which you have instructed me. He refused me, saying that he had been charged not to turn them over to anyone. He told me that what he had were valuable articles. Mr. Poisson will give you better information on all this."

Lorimier continues with one of the few anti-Jewish statements in the French language in Canadian writing of the century.

"Write me more fully about Hart, which I cannot understand. I cannot imagine that the old man (le Bonhomme) was such a jerk as to engage this Jew to the prejudice of so many young Canadiens of distinguished talent at the bar." (The Canadian Antiquarian and Numismatic Journal, vol. 10, 1910, Pp. 32-34; Duvernay Papers, ed. by Ivanhoe Caron, in Rapport de l'Archiviste de la Province de Québec pour 1926-27, Pp. 181-88)

Fifty years later we read again, in the biography of this least Jewish descendant of the Judahs, expression of contempt of Jews; significantly, always confined to the legal profession.

LEVY (LOUIS) KOOPMAN (MARCHAND)

The most remarkable figure of Jewish participation in the rebellion of 1837, clearly arising from his total integration into the life of the people of the colony where he came to settle, is that of Levy Koopman.

This member of an established Dutch Jewish family in due course became a soldier in the Quebec revolt, a fugitive, a prisoner, a Montreal alderman.

His story became the more complex as Levy Koopman became Louis Marchand, the husband of Marie de la Colombière, married in the Roman Catholic church. It but illustrates the assimilative power so often demonstrated of Quebec Christian society, and the problem facing Jews, aware of their ancestral tradition, in entering fully into the ambience of the Québecois people.

Probably the ultimate in integration as reflected in the military record is the biography of Louis (Levy Koopman) Marchand.

This Amsterdam Jew, born March 15, 1800, of a well-connected family of Prague origin, after a number of adventures and misadventures, including shipwreck, bad investments and yellow fever, found tranquillity in Lower Canada in 1826 and settled at St. Mathias de Rouville and at Chambly.

He entered the life of the colony very fully, became a partner of Soupras who had employed him, and was converted in 1828 at the hands of Mgr. Lortigue, Bishop of Telmesse.

In 1838 he became the manager of the Soupras firm. "Mr. Marchand manages the entire business and I did not interfere in it; I wasn't very well," Soupras testified in 1838. "I visited the store from time to time."

Later, when questioned about weapons in their store, Soupras testified "There were about six or seven rifles in the store, and some powder and lead, but I do not know their quality. Mr. Marchand had bought some eight rifles last October or November."

Two years later, on October 4, 1830, he married Marie Charlotte Céré de la Colombière, daughter of François Céré of Longueuil.

The papers of Montreal bookseller Edouard-Raymond Fabre contain correspondence with L. Marchand, July-August, 1829 regarding copies of Imitation de Jesus-Christ, Le Bon curé, Cantiques des missions, Cantiques de Marseilles and Instructions de jeunesse. (Archives nationales de Québec à Montréal, Fonds E.-R. Fabre, in Rapport des Archives nationales, 1972, P. 83.

Marchand records in his diary, which Léon Trepanier had seen that during the 1832 cholera epidemic in Montreal,

"I was the only man who dared go to the city to make purchases, such was the terror that had seized the people of the Richelieu valley." The other merchants in the district instructed him to buy for them as well, and he received a commission for this task which served these other merchants well. (also in La Presse, June 5, 1937, "Un Hollandais patriote de 1837.")

Marchand was a very intense participant of the French-Canadian cause of the late 1830's and frequently spoke at their assemblies.

A statement sworn before A. De Salaberry on Dec. 2, 1837 by farmer Baptiste Laroque of St. Mathias stated that Lubin Leblanc, employee of E. Soupras, merchant of that town, had threatened him on Nov. 2, 1837 that he would be killed and thrown into the water, as would all those who refused to march against the troops. Also, on the 12th of Nov., Louis Marchand, merchant of St. Mathias, had threatened him; he would have his head broken and his possessions taken from him if he did not march against the troops. Subsequently others also uttered the same threats against him and his wife. Eventually he was found at the Soupras home and was forced to accompany them to a "camp" near St. Mathias.

Marchand was warmly received when he spoke before the St. Mathias Church; the crowd hailed "the young Frenchman."

He was a delegate from St. Mathias to the fateful meeting of the Six Counties (originally convened by the federation of patriots of five counties, but another county came forward at the assembly to join the federation) at St. Charles on October 23 and 24, 1837.

The meeting heard Papineau, Wolfred Nelson, Viger and others defy Lord Gosford's proclamation which had banned public meetings. Marchand formally proposed the third of the formal resolutions of the meeting. He was seconded by Jean-Marie Tétreau of St. Hilaire. (L.O. David in "Les Hommes de 37-38" in Opinion Publique, March 22, 1877, and in his Les Patriotes de 1837-38. Montreal, Eusèbe Sénécal, 1884, P. 23)

Gerard Filteau calls it the most important assembly of the year. It was convoked by some of the more turbulent chiefs of the movement, but Papineau was also invited to give splendour to the gathering. Enthusiasm ran higher among the thousands who came from afar than he might have wished, as extremism was becoming an independent force, not completely under control. (Histoire des Patriotes, Montréal, Editions de l'aurore, 1975, Pp. 274-78)

The dozen resolutions introduced with long declarations of principle and of dedication shaped the events of the coming months and the idealism of French Canada for many decades to come.

Marchand was quite at home at St. Charles, accompanied as he was by several neighbours from St. Mathias, including his partner Eustache Soupras.

A St. Mathias neighbour, 47-year-old Timothé Franchère, father of four, also came with Soupras. He proposed the second of the resolutions.

"These resolutions were prepared the evening before the meeting (of October 23) in the home of one Ducharme by Louis-Joseph Papineau and Edmond Bailey O'Callaghan. I was asked at the meeting to second a resolution recommending the election of officers of the militia, which I did. The resolution was proposed by Mr. Louis Lacoste, M.P.P.

"I discussed this resolution with Mr. Papineau. I alleged that it was not appropriate, being too strong and tending to encroach upon the powers of the government. He held otherwise. Being again invited to second it after this discussion, I agreed, and I did so, and the resolution was adopted unanimously. There might have been between three and four thousand people at the meeting." (His attestation, Aug. 19, 1838; Archives de Québec)

A reward of £100 was later posted for the arrest of Franchère by Lord Gosford on November 29, 1837. (Rapport de l'Archiviste de Québec, 1925-26, P. 146)

He later swore that "he had not had the slightest idea that the St. Charles meeting would be followed by the troubles that occurred in the event."

Marchand entered action on November 11 when he joined the attack on a detachment of cavalry and artillery at St. Jean.

After being marked as a dangerous agitator, he fled to the United States. We hear of him next at High Gate, Vermont, next month, conferring with Dr. Robert Nelson about joining the army of invasion of the 600-700 rebels who had also found refuge in the United States.

In the self-exonerating testimony of Marchand's friends we read their versions of the flight from Quebec.

"I left the province for the U.S. last November 18 together with my associate Mr. Marchand. We left at six in the evening and reached High Gate in the U.S. the following morning, at about eight."

Soupras attested,

"The reason I left was that I had been told that warrants had been issued against me and some others. I was afraid of being taken and being put in jeopardy as Mr. Desmaray and Carignon had been at Longueuil."

The night before leaving for High Gate, Franchère had some five or six pounds of shot, but he did not sell any. He was accustomed to melting shot and lead of various types in his possession for his own use. This time he had prepared shot for no particular purpose, he attested. Early in November he had also bought eight or nine rifles from I. Brewster in Montreal, but sold two at a profit. He sent four to his establishment at St. Athanase and was left with three. He also bought six 25-pound barrels of powder for his three establishments.

Calixte Gigon, 29-year-old companion of Marchand at High Gate, testified later (Feb. 10, 1838), "The reason which induced me to go to the U.S. was my fear of being taken prisoner, as the papers threatened, and to avoid finding myself in the midst of the troubles which I could see menacing the country and of which I wanted no part."

T. Dufort wrote from Burlington to Ludger Duvernay on Nov. 19, 1838 that, "There is a great deal of commotion. The men of Saint Jean are coming to Burlington in large numbers, among them Louis Marchand." (Canadian Antiquarian, 3rd series, 1910, vol. 7, Pp. 77-79, reprinted in Rapport de l'Archiviste de la Province de Québec, 1925-26, Pp. 171-72)

Yet Soupras testified that he and Marchand sent an express express message from High Gate to the people of St. Mathias and at Ste. Marie urging them not to take up arms against the government and calling for calm.

It so happened that this statement of Soupras of Feb. 15, 1838 was sworn before Benjamin Hart, J.P.

In the meantime they were hearing reports of their properties at home being pillaged and confiscated.

According to Franchère, friends in Montreal advised them to return and to surrender.

At this time Franchère took the oath of allegiance to the Queen, at his home, as did Marchand and Soupras. "Following our example some hundred habitants who were at my place also took the oath," Franchère told Benjamin Hart, J.P. who apparently questioned him after he had begun to make his attestation. (Feb.19, 1838)

Gigon testified that they wrote from the U.S. to the attorney general informing him of their intention to return and to submit to the authorities of their country. On December 31, 1837 he, together with Franchère, Soupras and Marchand from St. Mathias and Charles Mongeon of St. Athanase, surrendered at Missisquoi Bay on the promise of immunity and protection given them at High Gate by Capt. Marryatt.

J. Douglas Borthwick gives Jan. 15, 1838 as the date of Marchand's arrest, together with Timothy Franchère and Richard A.R. Hubert. (Jubilé de diamant, Rebellion de 37-38. Montréal, 1898, P.69)

In January Marchand appeared with the group who returned to Canada on the promise of immunity and protection given them by Col. Marryatt. They were met at the border by special envoy, Bailiff Amable Loiselle, who permitted them thirty-six hours of freedom and then took them to Montreal where he remained for eight months under arrest in the new prison, charged with high treason. There is a record of Marchand suffering an attack of apoplexy one night in jail, and being aided by his fellow prisoner, Dr. Wolfred Nelson. (Letter of Notary J.J. Girouard to A. Norbert Marin, March 4, 1838)

Coincidentally, Soupras also fell gravely ill in prison and he, too, was aided by Dr. Nelson.

Patricia Joseph, a member of the family, refers to Marchand's diary which records the heroism of Dr. Nelson of St. Denis and of Chénier of St. Eustache. ("Un Hollandais patriote de 1837", in La Presse, June 5, 1937)

Amable Loiselle claimed a reward for aiding in the arrest of Franchère, but the committee of the council which investigated the claim on Dec. 2, 1838 refused to adjudicate it for lack of adequate documentation.

The document testifying to the arrest of Timothé Franchère is a receipt from Charles Winch, Gaoler, certifying "to all whom these presents may in any way concern that on the fifth day of January in this year of Our Lord One thousand eight hundred and thirty-eight, I received from Amable Loiselle the body of Timothé Franchère who is still in my custody," dated July 2, 1838.

In August 1838 Franchère reported that the Banque du peuple was in a 'prosperous state of affairs.' After successfully riding out the accusations that it had financed the purchase of arms for the Patriotes in 1837,the Banque du peuple entered the forties on a strong financial note. By 1843 it had a capital stock worth £200,000." (G. Tulchinsky. The River Barons, Montreal Businessmen and the Growth of Industry and Transport. University of Toronto Press, P. 18)

In 1846, we read in Tulchinsky, Franchère was president of the successful Société de navigation de Richelieu. (Pp.57-58)

Marchand figures in Aegidius Fauteux's Patriotes de 1837-38, where we are told that he was freed in the Durham amnesty of March 4, 1838.

After the suppression of the uprising of 1837 we find Louis Marchand supporting the petition for clemency of several men held by the authorities for their role in the historic events.

Louis Marchand and F. Marchand of St. Jean endorsed the December 27, 1838 petition of Denise Brouillet, wife of François Bédard of the Parish of St. Jean l'Evangélist, detained in the prison of Montreal on suspicion of treason since the beginning of last November. She claimed that her husband had been away from home only several days at the time of the uprising, and that was only to avoid being forced to take up arms against His Majesty's government. He was nevertheless arrested as soon as he returned home, his wife and three young children remaining destitute.

The Marchands and Curé J.E. Morisset endorsed her description of Bédard as an honest and peaceful man deserving clemency from the governor. (Archives de Québec)

In due course, Franchère became the first mayor of St. Mathias after the civil election of the parish, and one of its first school commissioners.

Marchand came to Montreal in 1844 as an active man of business and public affairs. He made his home at 2 St. Dominique St., corner Craig, until 1867, when he moved to 6 St. Charles Borromée. His novelties and spices store at the corner of St. Paul and St. Jean-Baptiste was quite well known.

Marchand was a close associate of Louis Hippolyte Lafontaine in Liberal-Conservative politics, and was present at parliament during the 1849 session when the building was set on fire; he barely escaped with his life.

Associate as he was of Duvernay, he was chosen vice-president of the Societé St. Jean-Baptiste.

Robert Rumilly recalls that Marchand was one of the dignitaries who graced the historic 1850 banquet of the Societé St. Jean-Baptiste. (Histoire de Montréal. Montreal, Fides, II.331)

In the 1849 agitation for the construction of a canal to connect Lake Champlain with the St. Lawrence, Louis Marchand was named to a delegation to proceed to Saratoga to a meeting there on August 21. Another member of the Montreal delegation selected at the public meeting: Moses Hayes.

In 1850 he became harbor commissioner, replacing the retiring C.S. Rodier. Marchand held that post until 1855. (Atherton History of Montreal, P. 594)

Patricia Joseph lists Marchand as serving on the municipal council in 1851 (Trepanier gives the date as 1852)and was named justice of the peace. He served on the first Commission of Magistrates for the district of Montreal. Soon after his election, he was named to the city's committees on fire, police and licenses.

After his election in 1853, he was appointed to the finance committee.

After the 1852 fire which ravaged the city, Marchand moved in council that the federal government be asked to aid the victims. He also forced through a measure forbidding wooden buildings in the city, in spite of very strong opposition. For months Marchand needed police protection from his opponents on this measure.

He also sponsored the law forbidding burial within Montreal churches.

In due course he became active in the Chambre de commerce and was vice-president of the Société St. Jean Baptiste.

Marchand was disturbed by the bitterness of the opposition he had aroused and he decided not to stand for reelection in 1854 in spite of the strong urging of his former comrade-in-arms, Dr. Wolfred Nelson who was mayoral candidate. Instead, Quebec Catholic Marchand set forth to visit the Koopman family in the Netherlands. Childhood memories and fluency in Dutch came back readily. Upon his return to Lower Canada, family bonds remained and were strengthened by a continuous and frequent correspondence.

In 1856, Marchand felt ready to face the challenges of politics again, and he ran for the East division. After his victory, he was again named to Finance, Aqueduct and City Hall committees. The following year, reelected, he was renamed to the finance committee, as well as to the committees on roads and on licenses.

When he was reelected again in 1858, Mayor Rodier nominated him to the chairmanship of the finance committee, a position he continued to hold after the 1860 elections.

Afer 1857, Marchand served as president of the Montreal and Trois-Rivières Navigation Co. His 1881 obituary refers to him as one of the founders of the Kitchener and Ontario Navigation Co. (La Minerve, Jyly 2, 1881)

Marchand was one of three Montreal citizens who charged Thomas D'Arcy McGee with election irregularities in Jan. 1858. McGee, who was to become one of the Fathers of Confederation, responded a fortnight later that the protest was invalid on several grounds, and that the irregularities charged against him were also practiced by the other candidates in the contest. (L.M. Lande. Canadian Historical Documents and Manuscripts. Montreal, 1980. no. 447. Pp. 247-48)

Years later, Louis Marchand et Fils were acting as bankers and exchange agents at 94 Saint François-Xavier St., corner St. James. (Leon Trépanier. "Un Montréalais du siècle dernier: l'immigrant juif Louis Marchand", in Cahiers des dix. Nov. 30, 1965, Pp. 131-49)

Thirty years later, Louis-François-Wilfrid Marchand, his eldest son, visited his father's native land. The younger Marchand studied law under Georges-Etienne Cartier and became registrar of the Court of Appeals. An enthusiast of journalism, he participated in the founding of La Patrie, was director of La Revue of Montreal, and translated Peter Kalm's Voyages. His nephew, printer Louis, son of Charles Marchand, in turn also sought out the family origins in 1928, but found that his cousins were living in Paris and in The Hague. (Portrait by Franchère, Léon Trépanier. "La Vie extraordinaire d'un ancien échevin de Montréal," in La Patrie, July 24 and 31 and Aug. 7 and 14, 1955; and in Cahiers des dix, no. 30, 1965, Pp. 131-49)

HART AT THE COURTS MARTIAL

One of the heroes of the Patriotes' cause of 1837-38 was a Hart, Adolphus Mordecai Hart (1814-79) whose role was very significant, not only in the professional terms in which he acted but no less in ideological terms. Admitted to the bar only in 1836, he acted before this important court in 1838 when access by the accused to lawyers was severely limited.

(Or was it A.P. Hart, as Gerald Hart, his nephew, indicates in a manuscript note in the McCord Museum?

(Mason Wade identifies the advocate as the son of Ezekiel Hart, but gives him the first name of Charles, in Les Canadiens français de 1760 à nos jours, trans. by Adrien Venne, Le Cercle du livre français. II.217)

As Gérard Filteau records it in his Histoire des patriotes, the court-martial trials of those accused of participating in the anti-government violence were marked by one fault: the accused were not permitted to choose legal counsel to conduct their defence. Their lawyers were admitted to the courtrooms only as spectators. They could talk to their clients only between sessions and to compile their written pleas for them. Several French Canadian lawyers offered to serve, but they were rejected because "Rebels cannot defend rebels."

Two anglophone lawyers came to the aid of the accused: lawyers Lewis Thomas Drummond and Hart.

The macabre humour of the moment is recorded also by L.O. David in his studies of "1837-38". He pointed to the lack of due seriousness in these military trials before inexperienced young judges, English officers who came to Canada to put down the insurrections. Their conduct during the trials, their offensive or sarcastic attitude and their cruel jokes indicated they had no more heart than intelligence. We are informed that some of them laughed as they passed pencilled notes with sketches of scaffolds with the men on trial before their eyes hanging from them." (Opinion publique, March 4, 1880, P.1)

We have a still picture of Judah at the trial of J.-G. Barthe, one of the Patriotes, after the failure of 1837-38. He recalls appearing before Judge Rolland demanding his habeas corpus,

"After deliberating for three quarters of an hour, while Henry Judah and others initiated, laughed in anticipation of what they knew would happen, the august magistrate appeared, only to deny me my right." (Souvenirs d'un demi-siècle, ou mémoires pour servir à l'histoire contemporain. Montreal, J. Crepeau, 1885, P. 398)

Gérard Filteau notes that "the only reproach that could be charged against the procedure of the court was in not permitting the accused to have their cases directed by their counsel. They were permitted to retain counsel, but these were admitted in the cases only as spectators. All they could do was to meet with their clients during the intervals between sessions and to prepare their written pleas for them. Some Canadian lawyers volunteered, among them Féréal Pelletier and R.-A. Hubert, but they were rejected because 'rebels cannot defend rebels.' So the Englishmen, lawyers Drummond and Hart, came to the aid of the accused." (Histoire des patriotes. Montreal, L'Aurore, 1975. P. 429)

Superhuman efforts were made to save those condemned. Drummond and Hart had no rest. Their representations to the Governor and to the Council followed each other without respite. They sought to persuade, cajole, threaten -- but always in vain. On February 9, they made a supreme effort to secure a bref de prohibition against the court-martial, but the Court of the Queen's Bench rejected their brief. (Filteau, Pp. 429, 436-37; Francis-J. Audet. "Edward Bowen" in Les Annales, vol. 3, no. 5-6, May 1924, Pp. 6-7 and no. 7, July 1924, Pp. 7-9)

Objections to procedure were made by the prisoners, not through counsel.

The basic Canadian document which records this even in the nation's history is the Report of the State Trials before a General Court Martial held in Montreal in 1838-39 Exhibiting a Complete History of the Late Rebellion in Lower Canada. Montreal, 1839, 2 vols.) It illustrates well the limited participation which the counsel were permitted. The record names only two defence counsel, or assistants as they are called in the volume: L.T. Drummond and Mr. Hart. Presumably the Hart referred to is Mordecai Adolphus, although Aaron Philip Hart and Aaron Ezekiel Hart were also practising at the time. Remarkably, L.O. David identified Drummond and praised him for his work; not a word about Hart.

Benjamin Sulte speaks of A.M. Hart risking contempt charges in his vigorous defence of the rebels.

Benjamin Sulte wrote that "Tory Magistrates Hanson, Dickson and Gilmour condemned him to an hour in prison and fined him five louis for contempt of court committed as he was defending one of the rebels. Some time earlier he had defended journalist J.G. Barthe and saddlemaker Richard Cook, accused of being Patriotes. These trials took place in Trois-Rivières."

One of those who benefitted from Mr. Hart's efforts on his behalf was François-Xavier Prieur, St. Timothée merchant who led the rebels at Beauharnois. His trial took place in Montreal in January 1839.

He expected to share the fate of those condemned to execution, "for the political trials followed each other before the court-martial without interruption, in spite of the generous and sound protests of the lawyers for the accused, Messrs. Drummond and Hart, who did not cease to protest against the absence of authority of the court and the illegality of the procedure...

"Some hours after our arrival at the prison at the Pied-du-courant, Drummond and Hart came to visit us in our cells and asked us for the information they needed for our defence... "

Hart and Drummond are of record in the trial of Cardinal et al; Drummond in the case of Huot, and in that of Hindelang; Hart and Drummond in the cases of Levesque et al and of Robert et al; Hart in the Brien et al. No names of counsel are given in the cases of Narbonne et al, of Bourdon and of Boec.

The court heard testimony, even favorable character testimony, called by the prosecution. Questioning of the witnesses was not by their counsel but, in part, by the prisoners themselves who may have suffered from a language barrier. (1.237, 240, 243, etc.) At the end of each hearing involving the fate of a group of accused men, the court permitted Hart (no initial) and Drummond, "assistants to the prisoners" to read their written defences. The address of the Judge Advocate was read and the court was closed. The verdict was then read: 9 of the first group were found guilty and sentenced to hang; of these, two were recommended for commutation of sentence for a punishment less severe. Two were found not guilty. (1.196-97)

In the case of another group, proceedings were delayed briefly to permit the prisoners to question a number of witnesses to establish their cases. Their lawyers did not participate in the examinations. (Pp. 257-72) In this case, too, Hart and Drummond were allowed to read their addresses and then the court handed down the sentences. The prosecution declared two men had been arrested as a result of mistake in identity, the other seven were to be hanged. (Pp. 273-75)

Only Hart appears at court as assistant of the prisoners. (P. 352) In the case of another group of accused he was permitted to read their written addresses. The eleven were all sentenced to death by hanging.

Thus Hart and Drummond, "assistants to the prisoners", read their written defences of P.H. Morin; P.T. Decoigne who was sentenced to execution; F. Trépanier who was liberated on bail; D.D. Leblanc who was transported; J.J. Hébert who was transported; H.D. Leblanc who was transported; J.B. Dozois who was acquitted; J. Parré who was transported; A. Morin who was transported and L. Lemelin who was acquitted. P.H. Morin was sentenced to death but this was commuted to transportation from Lower Canada. (Pp.195, 207-224)

The written defence read for the accused Cardinal and his group on Dec. 6, 1838 was vigorous:

"Arraigned before a tribunal hitherto unknown to all without the precincts of a barracks or the limits of a camp -- so formidable in appearance, so vague in its character, so unsettled in its proceedings; and called upon to answer for life and liberty, or death and opprobrium to our posterity, -- we dared to demand the right of every British subject, a trial by our peers; we dared solemnly, but respectfully, to protest against answering this accusation, against being compelled to enter into our defence before a tribunal, whose right to try us as civil subjects of the Crown of England, we could not recognize. And in so doing, we acted in accordance with a principle maintained in every Court of Justice in the known world, not solely in matters where the lives, but even where the most unimportant rights of individuals are at stake, namely, that the jurisdiction of such Court may be questioned by the person cited before it, and the decision of the tribunal required as to the absence or existence of the jurisdiction so shadowed with doubt.

"This declaration was deemed an insult! Gentlemen of the Court, we meant it not as such. Men placed in the awful situation in which we stand, have no disposition to insult even the meanest of their fellow-creatures -- much less to proffer outrage to a formidable tribunal, arrayed in judgment against them, and prepared to decide upon their fate.

"With regard to you, Gentlemen, we impute it not to blame, if we have been arraigned under these forms; we are aware that the power you now wield has not been claimed by you; that you have not arrogated to yourselves the right to judge us; but we dared to assert our immunities as British subjects -- to affirm, that the authority from which you hold your mandate had overstepped the limits prescribed to it by a superior power, which, with an eye ever watchful over the liberties and privileges of all who owe it allegiance, had forbade all interference with the mode hitherto followed in this country, in reference to trial of supposed criminals.

"And therefore, we called upon you to pause ere you proceeded to enregister a judgment against any one of us -- not for ourselves alone, nor in the names of our wives and children, who, under presumption of our guilt, have been banished from their houses by the brand of the incendiary, to seek the roof of charity in the name of that God, who protects the shelterless; not only on behalf of the hundreds, who, lingering in the dark dungeons whence we have been dragged hither in chains, awaited with anxious ear and beating heart, a decision, to them of such vivid importance, -- but also, in the names of half a million of our fellow-countrymen, any one of whom may, at a moment's warning, on a bare shadow of evidence, be cited in judgment before you, and be there surrounded by all that can appal, deprived of all that can support the human heart in such a situation, and stripped of that armour with which the humanity of English law, as extended to this Province, had hitherto encircled the accused.

"But the fiat has gone forth; you have decided, or rather you have assumed, that you were duly empowered to judge us. Since then, for the present, we must submit to the decision of a military tribunal, we deem ourselves fortunate in beholding, in the persons of our judges, many whose high reputation sufficiently warrant us that they will not stain their laurels with aught savouring of injustice -- and others, who, bearing on their countenances the impress of high aspirings, will not cloud their rising fame by allowing any preconceived opinions, which the breath of malice may have wafted to their ears, to influence the decision which they have solemnly pledged themselves, before Heaven, to render according to the evidence.

"No, Gentlemen of the Court -- in your consideration of the case now before you, you will discard from your memory all recollection of recent events -- you will shew to the world that your minds are above being tainted with prejudice -- you will set at defiance the blood-thirsty cravings of that portion of public opinion, which, alone, is not at this moment mute, and which so peremptorily demands, not only the death of the guilty, but of all accused; and you will be governed in your deliberation by the following propositions, upon which, before commenting separately upon the evidence adduced, as well against as in favour of each of us in this cause, we beg to rest our defence.

"1st. The rules and doctrine of evidence, as admitted by law in all criminal cases, or on pleas of the Crown, are adhered to nearly in the same manner upon Trials at Courts Martial, the only exceptions being when the proceedings have been otherwise regulated by the Statute.

"2dly. That cases of High Treason, being in no wise contemplated either as to the mode of trial, or the meed of punishment, must be regulated by the aforesaid rules and doctrine of evidence before Courts Martial, (if such Courts can ever be competent to take cognizance of crimes of this nature.) -- McArthur, vol. 2, p. 44.

"3dly. That two lawful and (to use the language of the old authors,) proveable witnesses are required to convict a prisoner, in all such cases, of High Treason, as induce attainder and corruption of blood. -- (See Statue, 7,8, Will.III.c3. McArthur, p. 53, vol. 2)

"4thly. That there exists no crime, where the will counteracts the deed, or, in other words, that threats and menaces, duress per minas, which induce a fear of death, or of bodily harm, take away, for that reason, the guilt of apparent crime, at least before the human tribunal...

"We have been exposed to every disadvantage; we have not been tried by God and our country, as we contend we should have been. The earthly tribunal to us has been a strange one: were we soldiers, accused of mutiny, we should be prepared to be tried by this Court -- we should know what judges would sit in judgment upon us -- we would know what fate must await us, should that crime be proved. But, Gentlemen, you will recollect, that we are civilians, tried for an offence not mentioned in the Mutiny Act or Articles of War. We are accused, as the copy of the charge served upon us states, with Treason

committed against the peace of our Lady the Queen, her Crown and dignity, and remark, Gentlemen, against the form of the Statute in such case made and provided -- that statute, according to the forms prescribed by which we have not been tried.

"We adjure you, Gentlemen, not to forget that we are accused of Treason, not Mutiny, -- the crimes are too widely different to be supposed the same, and we beg of you to remember, that the nature of the tribunal alters not the character of the offence.

"We, Gentlemen, are the first who have been selected to be tried by this, to us, strange tribunal, -- we are the first of the inhabitants of this Province, who, since the conquest of the Colony, have been subjected to the jurisdiction of a Military Court, -- and who are we? -- many of us peaceable agriculturists, poor and uneducated, -- we are required for the slaughter, and had it not been that the usages even of military tribunals permitted us to have the assistance of counsel, how were we situated? -- unable even to state our own defence, unable to combat the arguments of the learned men who have been for this occasion, contrary to the usual rule, selected to aid the military prosecutor, -- unable to detect the inaccuracy, the inconsistency, of much of the evidence adduced against us." (I. 85-88, 97-98)

There was also the eloquent plea for mercy,

"You will be called upon to fulfil the most awful part of this imposing trial. Yes, Gentlemen, the most awful part, at which any human being must shudder when required to perform. To dispose not only of the lives and properties of twelve fellow-creatures, but perhaps to make their unprotected wives widowed, their innocent children fatherless, -- to fill to overflowing that cup of human misery, which they, by the visitation of Providence, have already too deeply quaffed. Great God, in his mercy, we must hope, will temper the wind to the shorn lamb. For them, then, Gentlemen, -- for the innocent, the unoffending, who but as yesterday were comparatively comfortable, now houseless, without refuge, likely shivering and starving on the highway, -- and not for ourselves, -- we appeal to you.

"You are called upon to judge of it -- to scrutinize with a searching eye the evidence against us -- to examine closely and strictly, whether the proof amounts to the establishment of the charge against us so clearly 'that he who runs may read' -- in case of doubt, to extend to us the benefit of that doubt.

"You are our earthly judges -- in that sacred character, removed above all earthly or commonplace prejudices, breathing, we may say, a different atmosphere from the vast herd of mortals whilst in the performance of your duty, you are called upon to decide, not only our fate, but the agony and everlasting misery of our wives and children, if we perish by your decision, for by it not only our lives will be forfeited, but infamy heaped upon them forever; should we be set at liberty, then prayers, then blessings shall attend you, and may the great and wise all powerful Being direct you and guide you in your judgment." (I. 97-98)

Hart and Drummond also assisted the prisoners in presenting their individual defences. These consisted, in most cases of the usual analyses of the testimony, submissions of alibis, contradictions and incompetence of witnesses, prejudice, evidence given under pressure, dubious motivation, etc.

In the case of Joseph Parré the submission to the court was from the assistants,

"The defence of the prisoner, may it please the Court, rests upon the fact of his periodical derangement; and we consider that his lunacy has been made out distinctly by the witness Guernon, whose testimony stands unimpeached before you, and is confirmed by the evidence of Mr. Archambault. Guernon has proved clearly to the Court his insanity during the fall, his being incapable to watch over his affairs -- in fact, that he is at times a confirmed lunatic. We would remark, then, to the Court, that as all crimes are considered universally to be offences against our Maker, should, by his divine will, the power of reason be taken away, even periodically, from one whom he hath created, it would be barbarism to take advantage of that over which the mere mortal can have no power, and declare the lunatic to be as capable as the man in full possession of all his mental perceptions, and responsible to God and his country for all his acts. But, Gentlemen, you may ask, in answer to this remark, have you shewn that the prisoner is, or was, incapable of distinguishing right from wrong, and does the law contemplate that man as exempt from punishment, who knows that he is committing an offence when he performs the evil act? To this we answer, the question is correct, but have we not decidedly proved his derangement, that his wife is compelled to manage his affairs, and it is easy to be supposed, that a man so affected, would not only join in any desperate undertaking, but commit the most absurd extravagances, when once embarked in it, as the witnesses for the prosecution have

proved that he did. We most respectfully submit, that, by law, one witness is sufficient to prove the fact of insanity, and though had we been enabled to obtain adequate instructions, we might have supported the testimony of Guernon and Archambault by numerous witnesses; still as the point upon which the defence rests, is positively established from personal knowledge, by one witness, and from public report by a second, we may with justice claim an acquittal, on the prisoner's behalf, from the Court.

"The above remarks composed the address with which we this morning were prepared to furnish the prisoner; since the opening of the Court, however, evidence has been adduced, not in rebuttal of the testimony establishing the prisoner's periodical derangement, but, to our astonishment, to shew, by the examination of two Commissioners, that he was sane at the time of his examination on the 14th December -- a singular confirmation of the evidence of Guernon, who stated that he had been deranged annually, from the harvest time to about the month of December.

"If, may it please the Court, the defence of lunacy is to be set aside, by proof of lucid intervals, then are the laws of nature, and the merciful principles that have hitherto governed judges, violated, and the drivelling idiot, or the babe who knows not what it does, is as liable to be made responsible for the senseless, the infantile acts which either may commit, as the foul and blackened villain, or the man who, at once reasoning and in no way justifiable, departs from the path of virtue, and plunges, with open eyes, into the abyss of crime? The principle is so unfounded, so unjustifiable that it were useless to dwell longer on it...

"Mr. Buchanan's answers would lead us to believe that Parré was cool and collected during the examination, while Mr. Fisher says, that the man tried to appear cool, but did not succeed in so doing, and, in fact, evinced a great deal of trepidation. We would here, with all deference to the opinion of Mr. Fisher, suppose that it is less a matter of necessity to warn repeatedly an intelligent person than one ignorant and unwary, that he is not to criminate himself.

"As to the sanity of the prisoner at the time he was examined, we think clearly, that what the two gentlemen felt to be a mark of his saneness, affords the greatest proof of his derangement; he may have been clear upon many points with regard to past events, but suddenly resumes a portion of that active madness which cannot be resisted; as who but a lunatic or an idiot, after a lengthened examination upon matters closely affecting his existence, would beg the favour of an almanack from the judges or persons examining him, to decide (what Mr. Fisher considers, by the bye, as the proof of his superiority of mind) a bet as to some astronomical question, highly important, no doubt, to a man about to be brought to his trial for High Treason.

"We would refer the Court to the thousand of cases which have occurred of the sudden cessation of lunacy, when the parties are in the presence of those they dread, and the actual resumption of all their powers of perception in such lucid intervals. Had the surgeon of the gaol been in continued attendance of Parré, he might have proved, that even now he is insane, and we ourselves have been, throughout his trial, seriously incommoded by his silly and annoying interruptions." (Pp. 219-21)

Like all but one in his group of accused, Parré was spared the gallows; instead he was exiled.

The trial of the Robert group, which included accusations of murder as well as of high treason, was a hopeless and fatal affair, and the defence statements were desperate but weak. (II. 275-83)

Drummond was indisposed during the more sensational trial of the group headed by Dr. J.-B. Brien, and Hart was alone in their defence. The members included a number of leading personalities in the rebellion, some men of education, discipline, intelligence. "Prieur and De Lorimier in particular were able to put up a solid defence. They were not to be intimidated by the vociferous enraged bureaucrats who filled the court room, nor by persistence of the crown attorney. They interrogated witnesses until they came to contradict themselves and weakened or destroyed the evidence piled up against them. But it was all in vain. They were unaware -- as were those who were fated to escape the hangman -- that they had been betrayed. Terrified by the prospect of hanging, one of those accused finally joined the prosecution for a promise of clemency. On Nov. 18, 1838 he had signed a full confession in which he denounced his comrades, and particularly Chevlaier De Lorimier." (Filteau. P. 435)

Under the circumstances the defence statements prepared by Hart, or with his aid, were quite weak, in substance pleas for clemency. This was as true of the submissions of Prieur and of De Lorimier as of the others.

It is very likely that De Lorimier prepared his own statement. He was a man of some education, and refers to himself as the only man who could read at one assembly which he attended. He also notes that he was given little time by the court to prepare a full case in his defence.

"During our trial one of my generous defenders, Mr. Hart, told me that he had it from good authority that influential persons had petitioned His Excellency,Administrator Sir John Colborne, recommending me personally for royal clemency of which he was the depository as the representative of the crown. This request, I am told, was made because of the efforts and solicitations of the Ellice family who wanted to recognize in this manner the good attitude I had towards them while I headed the unit in the village of Beauharnois." (Notes d'un condamné politique de 1838, présenté par Hubert Aquin, Montréal. Editions du jour, 1974, Pp. 114-15, 122-23)

Prieur was found guilty on January 21, 1839, sentenced to death, but instead was deported to Australia. He returned to Canada in 1845.

The description of the trial from the pen of L.O. David never was submitted as a model of objective reporting, but it is an important and indelible element that has entered into the social folklore of French Canada.

"For nine days the prisoners sat pilloried on the bench of the accused, the target of the judges' ill will, of the witnesses' vengeance and the hatred and contempt of all about them. Each morning as they arrived at the court and each evening as they left, a crowd of enraged fanatics received them with howls like bulldogs, clamoring like cannibals.

"On the evening of Feb. 12, the prisoners, who had been waiting for three weeks to prepare for the gallows, learned that the authorities had ordered seven caskets. The first seven on the list were to be executed."

Prieur was to be among them. He recalled there was little sleep that night.

At three the next day, a Wednesday, they learned that the judge advocates had just come to the office of the gaoler and instructed him to tell the condemned men that the execution was set for Friday.

Prieur recalls those hours,

"Our door opened and the gaoler called out, 'Charles Hindelang!

"Ten minutes later the door opened again and the gaoler called, 'Chevalier de Lorimier!' He left with the guards and the door closed again.

"It opened the third time. I was at the other end of the room preparing some food in a casserole when I thought I heard my name being called. Leaving my dishes I went to him, telling my friends that it was my turn. But the gaoler told me in English, 'I wasn't calling you but Mr. Lepailleur and only to give him some food his family sent him.' (L.O. David. Les Patriotes de 1837-38. Montreal, Eusèbe Sénégal, 1884, Pp. 239-41)

PAPINEAU'S JEWISH FRIENDS

Papineau's leading role in securing full political equality in 1833 probably won sympathy from Lower Canada Jews, particularly from those living in such centres as Trois-Rivières and Quebec City, where the francophone environment was much more pervasive than in Montreal.

Ezekiel Hart and Papineau became friends about 1835, according to Ménard's Le Patriote of Oct. 12, 1903 edited by the antisemitic Joseph Ménard who disliked both.

A Papineau letter to his wife, written in Quebec about his visit to La Mauricie, portrays the social and political condition of the Jews very vividly. We need to note the date, Feb. 1835, the peak of Papineau's vigor and the approach of the cultural and political crisis of Canadian history of the century; the rapidly sharpening polarization was not only dividing friends, but there was a prudent avoidance of extremist and possibly dangerous persons -- a posture which is not absent from the Jewish documents. The place is Trois-Rivières, one of the secondary capitals of French Canada, a seat of social history and the home of many leading figures of politics and government. Now this city is visited by Papineau, a person of potential compromise or danger, whose course of action was not clear to the public, and possibly not even to himself; a political creature, but also a man conscious of his own genealogy, of the society in which he was moving and more aware of its past and future history than of its present which he was shaping to an extent.

"A dozen of us were travelling together; after each of of us had his say, told his story and recited his part, there remained but little time for serious reflection or for edifying suggestions. Kimber arranged a great party to his friends and to celebrate his new home. There were illuminated transparencies with 'Long live Papineau and Viger' and Long live the sovereign people, liberty, equality, and a thousand other fine sentiments, all surrounded by clusters of fruit and garlands of all colours. And all this skillfully cut from cardboard, with tinted silk and cotton background, producing a fine effect at but little expense...

"I was rather bearded and rumpled. I bet you would think I should not have appeared in company in this state. But on the contrary that this would call for even greater attention and gallantry, so they would not notice my neglected state. The ladies remained at the table with us till two in the morning, and the men till three, all satisfied with each other. The ladies were those of the house and Mme. Judah, two of the Misses Hart and two Misses Lozeau. They all told me that Monsieur was so amiable that his coiffure was not noticed. I had to be polite enough not to contradict them.

"Kimber was proud that he had several of the Harts and his son-in-law and Mr. Judah the father so drunk that in the morning they did not remember what happened the previous evening. I limited myself with a little good Bordeaux instead of the Madeira and the Port and came out of it all as fresh and sober as when I came in; I slept from half past three to half past five, then continued the trip to Quebec like a young man." (Archives de la Province de Québec, P-B, 47e, in "Lettres de L.-J. Papineau à sa femme," in Rapport de l'archiviste de la province de Québec pour 1953-54 et 1954-55. Pp. 352-54)

Long after Adolphus Mordecai Hart wrote Benjamin Sulte about the Papineau visit to Trois-Rivières, or of another one the following year.

"He dined at Ezekiel Hart's home, during the popular effervescense of the time, in the company of Viger, Roy de Portelance and others." (Canadian Jewish Archives, new series, no. 18, P. 401A)

A century and a half later a descendant of Abraham Joseph proudly told Claude Marcil of Education Québec, "My grandfather was a chum of Papineau's."

After the debacle of 1837-38, Louis-Joseph Papineau found himself in Europe. It was six years of flight and exile, meditation, the birth of a new homeland in his absence. Most of the time he was living in modest conditions, alone. Mme. Papineau joined him with three of their children. Of his friends, constant Judah remained with him.

Rumilly identifies the Mr. and Mrs. Judah who accompanied Papineau on his voyage to Italy before returning from exile as Henry Judah, who later presided as commissioner in the suppression of the Quebec seigneuries -- including Papineau's. The same identification is made in the Revue d'histoire de l'Amérique française, vol. 11, March 1958, P. 484.

Papineau experienced strange years of exile in Europe after the failure of the 1837-38 violence. They were years of pain, defeat and isolation far from Quebec but also years of satisfaction and of steeping in the classic culture of France and of Italy in which he was rooted. Even the separation from family and friends had some compensation in the relief from certain pressures and for the opportunity to meditate and to absorb the values and riches he was discovering in the metropolis.

All this while Lower Canada was slowly awaking to the post-uprising condition and to its reevaluation of events and of persons -- and of the person of Papineau.

In this psychological and political context the role of the H.H. Judahs is remarkable for being unique. They were practically the only friends to be with him during the years of absence from his beloved seigneury deep in Lower Canada and from the parliamentary tribune that was especially his.

Joseph Papineau, father of the exiled Louis Joseph, wrote to his son in Paris on March 25, 1840 from Montreal,

"It seems that the prosecution initiated against nine persons, including you, has been dropped. Governor Thomson declared that he will not follow them up without the express order of the Secretary of State for the Colonies, which will probably not arrive.

"In these circumstances I would not hesitate to sell your house if I would find the price. Applicants are -- 1. Mr. Delisle, Greffier of the Court of Commissioners, and 2. one by the name of Judah of Judé, whose family is from Trois-Rivières, who told me that this house should go for fifteen to eighteen thousand louis, of which a thousand or twelve hundred in cash. I do not know what Louis Viger will make of it. I shall only see him tomorrow." (Correspondence de Joseph Papineau, 1793-1841, in Rapport de l'Archiviste de la Province de Québec pour 1951-52 et 1952-53. Pp. 161-299)

Papineau's letters to his wife, written in Paris, are full of references to the Judahs.

"All is fine at home, if I am to believe Mme. Judah." (Oct. 31, 1844)

It was when Mrs. Judah brought him the vivid reports of the life of his family back home in Montreal that Papineau mused on the distant future of household and nation,

"In all certitude that this temporary torment will pass in the lifetime of our dear children, and that it will call our country to life of liberty, contentment and independence it has not known for eighty years, we need not fear the ills that will be followed by the general good. Withdrawing into the circle which the family forms together on rue St. Jacques, next door to the house where I was born, where I was to learn all that one needs to know during a lifetime to love family and nation, when one is brought up by parents as worthy as mine and in a union as brotherly and as tender as that which made so beautiful my childhood and those of sisters and brothers.

"The arrangements made with Mr. and Mme. Judah are advantageous for the time being. There is friendship and liberality in their proposition, as I find here in their personal contacts since they arrived here on the 21st.

"The trip to Italy with Mr. Atkinson did not work out.

"Mr. J. offers to lend me whatever I may need. We await the letters the next steamer will bring here. If this question of the arrearages is not settled favorably, I would hesitate to accept, because it would involve an expense of some hundred louis; unless I can do it without adding to your hardships.

"Even if it is favorable I cannot see that it would be wise to keep the Judah's house. It would commit me to two years in Montreal and live expensively as if I had a lucrative position. But my views being known, the government would want nothing from me, nor I from it when the sum total of the government is reduced to impartial administration of the present laws, unable to agree or to help modify them effectively to increase our representation as the sole means for us to secure our just share in the direction of Canadian interests...

"I have had Lactance's letter and the things brought by Mme. Judah for several days." (Oct. 31, 1844, in "Correspondance de Louis-Joseph Papineau, 1843-62" in Rapport de l'Archiviste de la Province de Québec pour 1955-56 and 1956-57. Pp. 255-375)

On Jan. 31, 1845: "What I hear of your good health is also confirmed by Mme. Judah who loves you and all our dear children and me very affectionately. She tells me every day that neither she nor your friends find you changed, but rather younger and more beautiful. All agree that, if you were amiable and fine before you left, you are the more so since you have returned, and they learn a thousand of the most interesting possible details about France and the U.S. Mme. Judah praises Lactance highly and firmly, and her husband is infatuated with Gustave and says seriously that the child's observations interested him more than those of other travellers he met and even influenced him in deciding to come...

"He is very glad that he decided to come; he admires greatly the beauty of the monuments and of the museums and the importance of the libraries, courses and of the public establishments for the advancement of science. Also that the political and social liberty here contrasts with the political oppression at home. He will have no reason to reproach Gustave for seducing him into a line of action where pain and expense exceed pleasure.

"We agree on every point in regard to Canadian politics; past, present and future. Conversation is therefore endless; neither of us is inclined to mutism at this age. He should be more of a talker than I; for the moment we find a way of speaking in turn.

"Finally we have decided to live together. They left their hotel on rue Neuve St. Augustin, and I left my lodging at no. 13, rue Mont Tabor, and we now have a very fine apartment at 7, rue de l'Arcade; equally distant from the splendid, sumptuous de la Madeleine Church; daily embellished and enriched with new ornaments in marble and in gilded bronze of the finest workmanship, and the simple and touching expiatory chapel. Mme. can go to each in turn, without besetting either too arduously.

"We left for Italy as soon as I received your letters of the sixteenth of this month. In consequence Mme. Judah could see Kimber and his wife but several days in Florence. All matters considered, she wrote him to come back here quickly. We expect them any moment. They will spend five weeks with us in the same house, one family until the second week of March when we all go to Rome.

"There we shall cleanse the Parisian pecadilloes during this time of special and abundant grace. For tomorrow evening we are all going to the bal masqué at the opera. M. Leprohon and his Delle who were there have told us that they found it so scandalous, seeing so many masks, some dressed as devils, rushing into the loges on the parterre to plunge into the dizzying rapture of the intoxicating dances such as polkas, valses and gallops, by three thousand people all at the same time, hurling and grimacing like possessed savages; it seemed to them as if real demons precipitated into this land. Nevertheless, feminine curiosity overcomes all, now that we are in Paris.

"We shall follow Mme. Judah; she will bear all responsibility. Nevertheless she is also tormented by the wish to attend each of the pious assemblies of the Holy Week in Rome, to kiss the slipper of the pope, and to receive his benediction in a private audience in addition to the orbi et urbi of Easter.

"We shall have all fashions. To reassure her I told her that wilder and more licentious carnival and masks do not preclude the processions of penitents and the juggling of papal benedictions after juggling purses and gallant intrigues. So goes the world in all the large cities of Europe.

"What is M. Judah telling me? He is not sure whether it is Amédée or Dessaulles who is making sweet eyes at Mlle. Donégani." (Pp. 281-85)

Papineau wrote from Paris on March 1, 1845,

"We are now setting up a home together, Judah, Kimber, their ladies and I. We will have some dinners and soirées to repay decencies received.

"If my arrears are paid the difference between low rent and high will be small loss for a six months period. If they are not paid, Judah promises me to wait. He tells me that my brother has taken it for three years, that he wanted it for six, and that he has the right to sub-let; that it was not the money aspect that troubled, but the embarrassment that he would have, and even more that his wife would have, from an unclean tenant who gives them back the house in a pitiful shape, whereas we all know that you would turn it over in the freshest possible condition.

"I went recently to Vanvres to show Judah the magnificent establishment.

"Judah is always praising Amédée for his sense of order which will prove profitable for him and very useful for the public." (Pp. 287-88)

On March 22 he wrote her again,

"My last letter should have reassured you, and consequently you will not continue your efforts to sublet Mr. Judah's house. It is not the money which we will have to pay him; it is an advance he has made, a debt I am contracting for which he is promising delays if I need them.

"He is often unwell since coming to France, though it is nothing grave. If the summer in Italy does him no more good than the winter did in Paris, I shall not be surprised if we all return together to Canada on our return from Italy. Do not mention this possibility because he is not yet decided on this, and his wife is against it. He has enough spirit and taste to enjoy many of the beautiful things he sees in Europe; but, like nearly all our compatriots, he has not been prepared by a generous enough education to profit from all the useful observations there are to make here, nor to engage in new studies. He misses the routine of his office. I think he would be glad to go back to it, not because it will be pleasant for him, but because he knows no other thing to do.

"At Rome, Mme. Judah wants most intensely to have an audience with His Holiness, and I do not object to accompany her.

"Mme. Judah has golden dreams. She is sure that Amédée and Lactance have a chance at great success in their studies and at winning the most richly endowed girls in Canada." (Pp. 289-92)

Papineau was very happy with the offers of the Judahs. He wrote Mme. Papineau from Paris on Dec. 31, 1844,

"The arrangements made with Mr. and Mme. Judah are advantageous for the time being. There is friendship and liberality in their proposition, as I find here in their personal contacts since they arrived here on the 21st.

" Mme. Judah offers to lend me whatever I may need. We await the letters the next steamer will bring here. If this question of the arrearages is not settled favorably, I would hesitate to accept, because it would involve an expense of some hundred louis; unless I can do it without adding to your hardships.

"Even if it is favorable I cannot see that it would be wise to keep the Judah's house."

Mme. Papineau wrote her husband, on Jan. 23, 1845, "In our present condition of uncertainty I neither can nor wish to keep Mme. Judah's house, so you must notify her. She said that notice must be given in February, so that when you receive this it will be due them for her to inform her agents to put it up for rent. As to her furniture, if your arrears are not voted (by the House), I will return them to her. As for the house, I insist on returning it to her, for the rent is too high, and in our present uncertain condition, it is wiser to give it back to her."

So son Lactance Papineau wrote him on Jan. 23, 1845, "For the past two months we have been wondering where and how Mr. and Mme. Judah have joined you? Did you go with them and the Kimbers (Mr. Judah's in-laws) to Italy, or did you make other plans?" (The Kimbers were related to Papineau on his mother's side.)

And mother added, "We are anxious to know how the Judahs have arrived. Give them our love." ("Correspondance de Julie Bruneau, épouse de L.-J. Papineau, 1823-62", in Rapport de 1'Archiviste de la Province de Québec pour 1957-58 et 1958-59, Pp. 148-49)

Lactance wrote his father from Montreal,

"Since you missed the steamer, we are two months without knowing where you are or how M. and Mme. Judah have met up with you again. Did you leave for Italy with them and with Kimber and his wife, or have you formed another plan?" (Rapport, 1957-59, Pp. 148-50)

On March 22, 1845, Papineau wrote her, "My last letter which you must have received soon after you wrote me on Feb. 24 should have reassured you and stopped further steps to sub-let the Judah house. It is not moneys that need to be paid at once. It is an advance that he made, a debt I contracted for which he promised me some delays if I need them." ("Correspondance de Louis-Joseph Papineau." P. 289)

From Rome, Papineau wrote his wife on May 13, 1845.

"Money worries are continuing. I find them the easiest to bear. Judah and his wife are all the kindness and obligeance that can be to us. They encourage and exhort you to be at rest; we shall wait.

"It turns out that Mme. Judah was wrong, and that Amédée has not been making sweet eyes to a very young cousin. Yet Mme. Judah did believe it.

"We were fortunate to see Vesuvius in one of its moments of anger and agitation. But we had the hardiest and most experienced guide. He took Mme. Judah by the hand and would not let her approach the edges of the volcano when the lava was flowing, when the rocks and ashes were cast to a great height and less than ten steps from us." (Pp. 293-96)

Apparently Mme. Papineau proceeded in her prudent way, for on June 20, 1845, her husband wrote her, "It is unfortunate that you did not keep the house, for Judah has been truly ill on this voyage, and he decided to give it up, and we shall all be returning together. But that is something you could not have foreseen. It is a misfortune, but not your fault." (P. 299)

His letter of July 15 to his wife had recourse to a humour already ancient a century and a half ago to cover up failure to write: the stupidity of the service which has held back letters because the government did not want to disseminate materials unfavorable to the government.

"Your letters and those of the children arrived regularly; of your packages sent as carefully as mine addressed to Judah, not one has come. Clearly an inept and blind antipathy against his Jewish name must have stopped his letters.

"Judah and his lady are in England. They should return for the July holidays, and we are talking of leaving some time in September.

"My plan and hope is to be able to leave with my friends Judah and his wife by the packet to Boston on September 4." (Pp. 300-05)

Again, "Judah and his wife have gone off to Scotland and will await me in Liverpool from where we shall go for several days to Dublin; then, all together, to Boston."

He had to delay his return briefly while waiting for Mme. Judah to join him in selecting some items of jewellry, "since these are expensive and need several visits before purchasing." (July 31, 1845, P. 305)

"Judah says that he and not Dumas will become seigneurial commissioner in a month." ("Lettres de L.-J. Papineau à sa femme," in Rapport de l'Archiviste de la Province de Québec, 1955-57 Pp. 363-64)

In a letter to her daughter, Mme. Papineau wrote, "I am relieved to know that Mme. Judah feels better." (Dec. 26, 1858. "Correspondance de Julie Bruneau-Papineau, Pp. 173-74)

And again a fortnight later, "Uncle Pierre also wants to know how Mme. Judah is feeling. You had told me she is better, in the care of her new doctors, and then you said that she is declining fast. Had she had a relapse?" (Jan. 11, 1859, P. 174-75)

A month later, "As for Mme. Judah, we must be resigned to see her end. It is very fortunate that she makes her sacrifice courageously." (Feb. 13, 1859, P. 176)

Jean Bruchési identifies Henry Judah as the dear friend of Louis-Joseph Papineau who advanced him moneys during his years of exile and before, and who travelled with him in France and in Italy. ("Lettres d'un exilé, 1843-45," in Cahiers des dix, vol.17, Pp. 104-9)

Mme. Papineau wrote on July 10, 1845, "You do not write a word about Mme. Judah's health. I hope she is better. I do not know whether she is coming back with you. Her friends think she is." ("Correspondance de Julie Bruneau-Papineau," P.150)

Upon his return to Montreal Papineau found himself unable to take possession of his own home on Bonsecours which had been rented out. He rented a house from Judah.

The families remained close for many years.

In 1858 Papineau, now very much older, wrote to his wife on Aug. 12, of an uncomfortable afternoon with his widowed som Amédée. He went shopping and then to visit the Judahs.

"I stopped at Judah's office and found they were not in; I was a little alarmed, for I had heard Mme. Judah was indisposed. I came back at two and found the dear lady in the grove, lying on her sofa, in the company of Mlle. Caron and a relative of hers from Nicolet whom you have seen at the Judah home. Soon came father Leonard with his endless conversation. At half past four the carriage came to take Mme. Judah out for the drive ordered by the new doctors, daily except in rain or strong wind. I went with her...

"I was a little alarmed to hear that Mme. Judah has taken again to her bed...Her carriage was at the door for the daily drive ordered by the new doctors, unless in rain or strong wind. She loves her friends and people as always. She has better moments, exhausts herself too much. I am worried about the bad weather approaching. Whatever happens, she will end among friends. The outing lasted till seven o'clock. She is thinner and weaker than when we left her. Is it really so, or does it appear so because she is not speaking, on doctors' specific orders?

"Silent ladies are as alarming a phenomenon as is the failure of sick people to eat. To us simple people it appears a warning sign of approaching death.

"She is not coughing, which seems a good omen if there are any good omens in her malady."

A JUDAH IN PARLIAMENT

Judah was probably the first Jewish member of the legislature of what was then Canada -- if he was Jewish.

It is difficult to specify the nature of the question. Was he converted to another faith? Was he married in church? Did he consider himself a Jew?

Whatever the facts, there was no question as to whether Judah was Jewish in the eyes of those who followed Hitler's definition of the term. So Joseph Ménard's Le Patriote was happy the Harts and the Judahs were not mentioned during the observances of Trois-Rivières' long history. His article on the subject (Aug. 15, 1934) referred to Judah and was headed, "A Jewish Member for Champlain."

Henry Judah sat in the House of Assembly of the Province of Canada for the County of Champlain from Sept. 22, 1843 to Sept. 23, 1844, succeeding his father-in-law Dr. René Joseph Kimber. (Joseph Desjardins. Guide Parlementaire de la Province de Québec, 1792 à 1902. Quebec, 1902)

Dr. Kimber had been named to the Legislative Council of the province on Sept. 4, 1843 where he sat only for several months; he died Dec. 22, 1843.

We know of no oath problems that Judah may have had, but this was after 1832, so that tells us little of his official religious affiliation.

The Journal reports that on Sept. 23, 1843, he took the oath according to law and substance before the commissioners, the roll containing the name, and took his seat. There is no record of any question or discussion on the matter. He voted regularly on a variety of questions before the legislature in Oct. and Nov., 1843.

The problem of oaths had not arisen for Judah, and was settled by law for the Canadian parliament.

Nevertheless, this did not prevent the issue from arising a few years later on the Pacific, where the colony of Vancouver Island was still a decade from confederation.

There the election of Selim Franklin to the Legislative Assembly in 1860 brought the same challenge from the highly respected Alfred Waddington that Ezekiel had had to meet half a century earlier in Quebec. The story has been fully told elsewhere. (David Rome. The First Two Years, a Record of the Jewish Pioneers on Canada's Pacific Coast, 1858-60. Montreal, H.M. Caiserman, 1942. Pp.64-77) We need only note that in Judah's case the issue was practically ignored, and that Franklin, like his brother Lumley and like Henry Nathan, continued for long in political life in the province and in the dominion.

The record indicates that Judah took his legislative duties very seriously, if we can judge by his regular attendance.

On Oct. 5 Judah voted for the appointment of committees; next day, for the motion to move the colony's capital to Montreal. On the 25th he voted on duties on livestock and other agricultural products.

On Nov. 4th he cast his ballot to discourage secret societies. On the 8th he again supported Montreal ss the seat of government. On Nov. 20 he opposed limiting banking liability (as again on the 22nd). He also supported a bill for the customs management and for timber inspection on the 20th. The measure in connection with the municipal district of Niagara had his support on Nov. 21, and the customs proposal again on the 22nd.

A letter from Adolphus M. Hart of Montreal of Dec. 2, 1843 to his uncle Moses Hart of Three Rivers may indicate that the elder of the premier Jewish family in Canada was being informed of ministerial prospects by a Quebec Jew who was a distant relative.

"There is nothing new from Kingston. The last dates were Tuesday after 4 o'clock by the mail which arrived at 11 A.M. No new ministers have been appointed and Lafontaine has deferred his explanation until the Wednesday following."

Disappointment is implicit in this report reaching the further perimeter of the Judah circle. No news came, and Judah apparently lost interest in his legislative role. Although he had attended and voted regularly as late as the end of November, we have no record of his ever returning to his seat in the parliament after this date.

There is no clear indication of the reason for this development. But a letter in the Hart Papers leaves the impression that in his mid term he was disappointed to have been omitted from a cabinet post or other official position.

He was residing at the time at 34 St. James Pl., Little St. James St. His brother, T.S., had his office at 46 Craig and his home at le Bocage, Dorchester St., near Richmond Sq. (R.W. MacKay. Montreal Directory for 1842-43)

T.S. Judah, together with Gershom Joseph, attended the first meeting of the Montreal Bar on July 24, 1849.

Henry Judah was one of the founders of the Montreal City and District Savings Bank organized in 1846. Rumilly records that the Bank, with Judah as a member of the administrative council of 15, was established on the initiative of Mgr. Bourget as a mutual philanthropic institution dedicated to propagate the tradition of saving among the populace. (Histoire de Montréal. Montreal, Fides. II, 303)

Gerald Hart notes that "among the original Directors were Theodore Hart, uncle of the writer, as an Honorary Director, and Henry Judah, a cousin of ancestor Aaron Hart and closer relative of his wife. A descendant of H.H. Judah is on the present Board of Directors." (McCord Museum)

In July 1849 Judah was one of two examiners who tested a young lawyer before Judge Smith on his admission to the bar. (Gazette, July 17, 1849)

In 1854 Henry H. Judah was named Q.C.

ABOLISHING THE SEIGNEURIES

In mid-century the McNab-Morin government decided to abolish the outmoded seigneurial system in Lower Canada, and to compensate the owners of the existing seigneuries.

The act provided for the equitable evaluation of the indemnities requisite for the redemption of the prerogatives of the seigneurs, by the appointment of ten commissioners charged with inquiring into the extent of the lands held by the tenants in each seigneury, in the economics of the various aspects of the system and into the documents and accounts of each seigneury; and among the ten was Henry Judah. In some cases the commissioners also served as a court of revision on appeal after the evaluation.

It was an important step in the social and economic history of Quebec, as Marcel Trudel put it,

"The seigneurial system was not designed for an industrial world. It put too many stumbling blocks in the path of industrialization. Little progress could be made where the seigneur's property spread over one or more parishes, where the lods et ventes hampered transfer of lands, and where the communal mill enjoyed a monopoly at a time when the trade in flour was making rapid strides. The seigneurial system which had been designed for a society in its infancy found itself out of date. Abolition was not brought about by the rural censitaire who could still profit by it, nor was it the result of a humanitarian or philosophic campaign for the liberation of the common man,even though this subject gave occasion to speculation on the natural equality of men. Abolition became imperative because the system could not subsist in the conditions created by economic progress....

"There were to be no more seigneurs and no more censitaires. Under this act the seigneurs were promised an indemnity for loss of their financial rights. A court was established to assess these losses. The outcome was that the Government paid some $5,000,000...

In France, it had taken plunder and bloodshed to sweep away the old social structure. In Canada, by the act of 1854 revolution was accomplished in the most peaceful and equitable way. A little ink and a lot of money flowed." (The Seigneurial Regime, Canadian Historical Association Historical Booklet, no. 6, P. 17)

As commissioner he prepared the Cadastres of the Seigneuries de la Baie du Lefebvre, de Beauharnois, de Bellarme, de Beloeil, de Bonsecours, Boucherville, the arrière fief of Bourg Royal, the Grand fief Grandpré ou Mont plaisir, the seigneurie de Deguire on la Rivière David, Seigneuries de Bourchemin ouest and est, de Bourgmarie est and ouest, de Chambly ouest and est, de Chateauguay, de Délery, de la Lussaidière, de Debartzch, de Delorme, de Ramezay, de Dessaulles-Propre, fief Duclos, Seigneuries de Foucault, Nicolet, fief and seigneury de la Guillaudière, fief Hébert, Seigneuries de l'Isle Jésus, de Pierreville, de l'Isle Ste. Thérèse, des Isles Varennes, de St. François du Lac, fief Jenison, Seigneuries de Lacolle ou de Beaujeu, de Lasalle, the Baronnie de Longueuil, the Seigneuries des Mille-Isles, de Mondelet, and fief Mondelet, Seigneuries de Monnoir, de Montarville, de la Nouvelle Longueuil, Noyan, fief Radison, Seigneuries de Rigaud, de Rosalie, de Rougemont, de Rouville, de Sabrevois, de Saint-Armand, de St. Blain, de St. Denis, de St. George, de St. James, fief de Martigny, Seigneuries de St. Michel et la Trinité, St. Normand, de St. Ours, du Sault St. Louis, de Soulanges, de Thwaite, fief Tremblay, Seigneuries de Varennes, de Vaudreuil, de Vercheres and de Yamaska, nearly all the seigneuries in the area of Montreal and some in Quebec and Three Rivers.

Among the seigneuries he evaluated were the fiefs Dutord and Hertel et Marsolet, owned by the heirs of Moses Hart (the former appraised at $5500 with an income of £42 for its 13,700 arpents; the latter valued at $1600 for its annual income of £13).

As commissioner under the 1854 act for feudal rights, he also evaluated the Seigneury of Bécancour, the property of the heirs of Samuel Bécancour Hart, among them Theodore Hart. Its area measured 5484 arpents and 71 perches. The cens and rentes were evaluated at $2,700 and the rentes at $1,330. The Harts received this sum and continued as the owners of some unconceded land; for these they continued to receive "rentes constituées des habitants." It was not until much later that this passed out of the hands of the former seigneurs to the lowly usurers of the villages and municipalities.

Among the seigneuries thus evaluated was that of his friend, L.J. Papineau, the still famed Seigneurie de la Petite Nation. In this cadastre its cens et rentes amount to $53,300, its lods et ventes to $17,530, the indemnity for banality $2,000, the value of the communal mill $4,000, the manor houses and the seigneurial domains $17,000. Rumilly wrote that Judah seems to have done his best for his friend.

There was also the Fief Plaisance, owned by the estate of D.B. Papineau, whose manor and seigneurial domains Judah evaluated at $6,000; unconceded lands at $2,000; cens, rentes, lods et ventes at $2,000.

The reports on the seigneuries were published in seven volumes of Cadastres abrégés des Seigneuries, 1862. (Victor Morin, "La Féodalité a vecu", in Cahiers des dix, no. 9, Pp. 274-77)

The commissioners also evaluated Fief Boucher owned by E.M. Hart; the part of the Seigneurie de Godfroy and the Seigneurie de Rocquetaillade both owned by Sarah Dorothy Hart, the widow of N.H. Desilets, and by Charlotte Matilda Hart, the widow of C.E. Belle; the part of fief Hertel et Linctot owned by Mary McCarthy, alias Mary Brown, the widow of Moses Hart.

In 1862 Henry Judah ruled, as commissioner, that Theodore Hart, proprietor of Fief Classe, needs to pay the Seigneurs de Montréal to clear all redevance. The fief had an income of 400 louis annually. (Archives of St. Sulpice, tiroir 62, no 120)

In such a delicate and far-reaching process it is not surprising to find Notary Charles Basin of St. Ours Parish complain to the Legislative Assembly of the Province of Canada on March 21, 1859 and on Apr. 12, 1861 against Seigneurial Commissioner Judah, praying relief. (Journals of Assembly)

Theodore Hart was the owner of the seigneury of Bruyères, consisting of 17,600 arpents with an income of £68. It was evaluated at $13,000.

Miriam Judah Hart, the widow of Alexander Thomas Hart who was the son of Moses Hart, owned the Seigneury of Courval which had an income of £290 and was evaluated at $35,000.

Mrs. A.B. Hart owned the seigneury of Ste. Marguerite, (valued at $7500), and the nominal seigneury of Vieuxpoint which netted an income of £2.

His nephew Frederick Thomas Judah, the son of his brother Thomas Storrs Judah, succeeded him as chief commissioner for seigneurial tenure. (J.D. Borthwick. History and Biographical Gazetteer of Montreal to the year 1892. Montreal, 1892, P.173; and Wm. Wood. The Storied Province of Quebec. Toronto, 1931)

We find Judah among the three dozen promoters of the Montreal and Bytown Railway which failed in 1859.

He was among the Conservative Party defenders of Delisle, sheriff of Montreal who was dismissed in 1864, allegedly for improper procedures.

After his wife's death Henry Hague Judah gave the land bounded by Dorchester, St. Matthew, Guy and Baille Sts. to the Grey Nuns in memory of his beloved wife.

Ivan Wotherspoon dedicated his Manual of the Practice and Procedure in the Several Courts having Civil Jurisdiction in the Province of Quebec, (Montreal. Dawson, 1870. XL, 417lp.) to Henry Judah, Q.C., "in grateful remembrance of much kindness."

By this stage in the Judah family history nothing could have been less Jewish, more Québecois or even more Christian. But, was it so?

With all its many distinctions and its profound roots in the country, the name of Judah still evoked a sneer in some very good quarters.

We read in the Mémoires Chapais, vol. 3, 1875-88, edited by Julienne Barnard (Montreal, Fides, Pp. 116-17) that the father "yesterday met one of my former employees, Mr. Judah, Montreal lawyer. He has left the civil service at the time of Confederation to practice in Montreal. Until recently the law office was called Wurtele, Judah & Branchard. Wurtele has just retired leaving Judah and Branchard alone. I spoke to him about you (Thomas Chapais) as a third partner but rather vaguely, not knowing conditions at home. The idea did not displease him. I then made some inquiries and was told that the office had a good standing and inspired respect and confidence. I could go further into the matter if necessary. Think about it."

The editor of the Mémoires comments, "At first sight Thomas felt that the names of Chapais and Judah scarcely harmonized. The father did not insist. He wrote on May 2, 1879, 'I confess Judah is not a name that resounds well to an ear as Christian as yours. Let us not speak any further about this.'"

Curiously the foreign name Wurtele seemed not to trouble anyone; nor did any number of continental non-French names in Lower Canada commerce, government and society. But the Judah name was hard for a Chapais to swallow.

The reference here is to Frederick Thomas Judah's 1867 partnership with Jonathan S.C. Wurtele. The firm later became Judah, Branchard and Kavanagh, a most reputable firm entrusted with very important commercial and institutional accounts.

This is the family of Thomas Chapais who wrote in defence of the Russian czar during the revolution of 1905,

"The worst enemies of the czar and of his government at this time are not the Japanese but freemasonry and universal Jewry. The telegraph agencies are subject to influences hostile to them. This explains the emotional tone of the dispatches carried by the wires, their obvious exaggerations, their commentaries marred by partisanship and malevolence...It seems a matter of justice to alert the readers of La Revue canadienne against the telegraphic information which is deliberately partial in regard to the events of the war and internal Russian affairs. If we are to explain it, we should say that English and Jewish sentiment are both hostile to the Russian government, the former for political reasons, the rivalry of interests; the latter for a social reason which is the firmness displayed by the public power towards semitism in Russia. And nearly all trans-Atlantic telegraphy is in the hands of English and Jewish capitalists." ("A Travers les faits et les oeuvres," in Revue canadienne, vol. 48, 1905, Pp. 316-18)

It is an anti-Jewish expression that paralleled Henri Bourassa in the House of Commons in defence of the anti-Semitism in Russia and Goldwin Smith, the premier agitator of anti-Semitism in English Canada since his very arrival from Britain where he had developed an antipathy to Benjamin Disraeli.

A few years later Action catholique echoed these suspicions when it agitated against Mendel Beilis and supported the accusation that Jews committed ritual murder.

To situate this anti-Jewish agitation in the history of Quebec, the earlier volumes of Revue canadienne carried the friendly articles on Canadian Jews by J. Tassé and Benjamin Sulte in 1870.

Characteristically, Thomas Chapais was one of the speakers, together with the anti-Semite Abbé A. d'Amours, at the centenary observances for anti-Semitic Louis Veuillot at Laval and in the seminary in Dec. 1913. (La Vérité, Dec. 27, 1913)

In June 1908 the Association Catholique de la Jeunesse Canadienne held a congress in Quebec. Its proceedings were published the following year, with a preface by the Hon. Thomas Chapais. The volume included the address of L.-C. Farly of cercle St. Michel of Joliette: "The Jewish Question". (Le Congrès de la jeunesse à Québec en 1908. Rapport officiel du Congrès tenu à Québec par l'Association Catholique de la Jeunesse Canadienne-Française les 23, 24, 25 et 26 juin, 1908, à l'occasion des fêtes du deuxième centenaire de Mgr. de Laval, premier évéque de la Nouvelle-France. Montreal, 1909. Pp. 118-33)

The Farly lecture followed that of Abbé A. Balthasard on freemasonry, (Pp. 90-99) who concluded that it was Jews who founded the secretly-inspired freemasonry. Satan had seduced ancient peoples into paganism; paganism has seduced the stubborn and obstinate Jews; the Jews seduced and corrupted the religious order of the Templars, and still deceives the large number of credulous and the freemasons. So the abbé traced the union of all the errors, heresies, hatreds and all the terpitudes led by the Jew, by Satan.

Farly opened his address with a succint summary of this phase of modern history:

"Twenty years ago ambitious Germany sounded a battle cry which resounded to the very shores of the Atlantic. Pastor Stoecker declared war on the Jew Strausmann and the alarm sounded: The Jew is the enemy.

"Hunted from the Vistula to the Rhine, Israel reached France. But no sooner did it show the tips of its horns than Edouard Drumont cried out with all the power at his command, 'War against Israel; Death to the Jews.' Along these lines Russia began its bloody persecution of the followers of the Talmud.

"Here we are at the very beginning of one of these strange phenomena, so strange to note: the Jew hunt.

"Israel must therefore resign to France, Germany and Russia no longer being willing to bear its yoke, and America will soon before long not tolerate it either.

"Now the question arises. Why? Why has the Jew been treated as an enemy by France, Germany and Russia, and why will America without persecuting them, soon force them to withdraw?"

There will be occasion to examine Farly's analysis in its place, but we may note,

Characteristically, Farly was concerned with the inassimilability of the Jews.

"As we follow the Jewish people through the various phases of their history, we soon establish a truth which may be qualified as remarkable: the isolation of the Jewish race.

"For two thousand years peoples have mixed, and we need only glance at modern Europe and at America as it is modernizing to remark that as they criss-crossed the peoples changed character and aspiration. The Assyrians no longer exist since the ruins of Nineveh and of Babylon, and who can distinguish in modern Europe who is descended from the Goths or from the Gauls, from the Burgundians, from the Vandals, from the Tartars, from the Slavs or from the Germanii?

"And nearer home, in this American republic, where for four centuries races are confused and forgotten, it is very difficult to distinguish clearly between Englishman and Frenchman. According to Villefranche, within half a century or a century at the most the millions of immigrants who sailed from Marseilles, from London, from Dublin or Amsterdam will have so cross bred that they will consider themselves only as American citizens; all except the Jews.

"What, then, is the reason for this? It can be found if we glance quickly at the Talmud or the religion of the Jew, and if we follow it through the ages."

Farley's "first foundation for this ethnographic miracle is the mark of Cain which Judas ineffacably implanted on the God-killing Jew.

"But as we seek to penetrate into the intimate life of the Jew or to study the mysteries of his religion, we come to ask why the Bible has been relegated to the background by some sons of Israel, to be replaced by this heap of all human stupidities which bears the name of Talmud.

"The reason is quite simple; it is because the law of Moses governed the customs of the Jews, restrained his passions, imposed duties upon him and limited his rights; it is because the law of Moses was a law, and as the Jew wanted to manage his customs his own way, to have no duties and to possess all rights, because he wanted no law that would be a true law, he rejected the Bible and adopted the Talmud, which accepts all his crimes and frees him from all that would shackle his appetites; that is why nearly all Jews today are Talmudists....

"What does the Talmud command? It commands nothing, it permits all, and places everything at the disposal of the cult of the me and of egoism.

"It does indeed say somewhere that 'the fear of the rabbi is the fear of the Lord', and that 'he who disputes with him or murmurs against him is disputing with the Lord and murmurs against him' but, I ask, where can true obedience rank with absolute servility towards fools made into gods?

"What, then, is this Talmud which conceives 'a lying and perjured God', a God 'who is bound to consult the rabbis who teach on high, in order to learn and to teach the elect?' It is stupidity personified.

"In this case, what are we, if God is only an important being, a very docile schoolboy who needs six hours of classes a day? It is less than astonishing that we are still 'of the nature of the beast' and that naturally 'our properties and our very lives are in the hands of the Jew...who should kill the most honest among us... and should spill our blood as a sacrifice agreeable to the Lord?'

"Add to these turpitudes that it needs only three of the most ignorant Jews to free their coreligionist of his oath, to annul his most sacred promises and engagements for the future or for the present.

"Add to this that for the Talmud 'a woman is only a vile beast whom a man can treat as he pleases, just as, when he buys meat from a butcher, he can eat it roasted, boiled or broiled.'

"The Jew will admit quite seriously, 'God ordered us to practice usury upon a Goy, and to lend him money only upon interest; so that, instead of helping him, we do him injury when it is helpful to us to do so.'

"These are the sacred and religious duties of a Jew towards God, towards a Christian, a woman -- perjury and usury.

"Nor is this all. There is still the teaching of the Talmud in regard to the future King of Israel. According to the Talmud, a Messiah will accept the gifts of all the peoples, but will refuse the gifts only of Christians...He will return the sceptre of the Kingdom of the World; all nations will serve him, and kingdoms will submit to him.

"What a pretentious, material and hateful teaching, and how well it explains the inveterate aversion of the Jew for the Goy.... That is why the Jew always smells Jewish."

And so on for twenty printed pages.

Henry Hague Judah died in Montreal on Feb. 10, 1883, after a very brief illness. The Montreal Gazette obituary named him "one of our old and influential citizens...a man of sterling worth and integrity, kindly feelings of a generous heart". (Feb.12, 1833)

He was interred in the Jewish cemetery on Prison St. at Three Rivers. In Oct. 1909 his remains, together with others so disturbed, were brought to Montreal where they were reinterred in the grounds of the Spanish and Portuguese Congregation on the northern slope of Mount Royal, as was Eliza Judah.

At the request of F.T. Judah, Notary A.D. Jobin prepared an inventory of the assets of the late Henry Judah in 1883. (Document judiciaire, XI, no. 9; "Etat sommaire des Archives nationales" in Rapport des Archives nationales, 1972, XI-9, P. 26)

THOMAS STORRS JUDAH

Thomas Storrs Judah (1804-95) brother of Henry Hague Judah, also studied law and had been articled to Mr. Ogden. He was admitted to the bar on Dec. 13, 1824 at Three Rivers.

The full name of lawyer Thomas Judah is given by J.-J. Lefebvre as Thomas Horse Judah. ("Tableau alphabétique des avocats de la province de Québec, 1765-1849", in Revue du barreau, vol.17, no. 6, June 1957, P. 289)

His admission came one month after Aaron Ezekiel Hart's in Nov., 1824, who was the first Jew to be thus accredited.

His office is listed on Craig St. in R.W.S. Mackay, Montreal Directory of 1842-43 and at 11 St. Vincent St. the following year; his residence on Dorchester, near Richmond St.

In 1863 his Dorchester St. address was given as Welland Place, west of Mountain St.

It was probably he (or his father) who is referred to in the diary of Dr. A.H. David in a June 1840 entry as the Tom Judah who was very hospitable to them. (Sack, P. 129-30) He was associated with his brother in the Three Rivers law firm. Later they both moved to Montreal. He had married Clarissa Vezina in Three Rivers ca.1825. Upon his settling in Montreal in 1836 he was appointed police magistrate. He presided over the first dinner of the Montreal bar in 1837.

FREDERICK THOMAS JUDAH

His son, Frederick Thomas Judah, born in Trois-Rivières in 1828, also studied law, was admitted to the bar in 1848 (Lefebvre, P. 289), became a law partner of his uncle Henry Hague Judah, later was head of the law firm of Judah, Branchard and Kavanaugh, and was named Q.C. in 1887.

If F.T. Judah was Jewish, he was among the first Jewish lawyers known to have practised in Montreal, together with Maxwell Goldstein and S.W. Jacobs. (Pierre Beullac et E.F. Surveyer. Le Centennaire du Barreau de Montréal. Montreal, Ducharme, 1949)

For a time he served the Department of Crown Lands, in charge of the Jesuit Estates and the Crown Seigneuries. His office and others with which he was successfully connected -- Judah & Judah; Judah, Judah & Wurtele -- acted for the largest firms in Quebec, including banks, the electric and the gas companies, the street railways, grain elevators, etc.

On Aug. 17, 1849, Frederick T. Judah had occasion to testify in the coroner's inquest in the case of Mr. Mason who was killed during the riots in Montreal following passage of the rebellion losses bill.

The report in the Pilot of Aug. 21 reads,

"The first witness examined was Frederick P. Judah. On the night before last, at almost a quarter to nine, he was walking on Notre Dame St. and St. Isidore St., towards the Hay market. He heard a noise in the direction of St. Antoine Suburbs and, as several of his friends and relatives live there, he wished to see what was the matter. He walked to the Suburbs and perceived in advance of him a crowd of men, boys and young men, screeching and bellowing. He turned up the street called Cemetery St. and went to Mountain St. He heard shouts still in the Suburbs and continued to walk on until he came to Bellevue Terrace, directly opposite

the lane in which (the Hon. L.H.) Mr. Lafontaine's house is situated. He heard shouts down the lane, but from his position he could see nothing as there was a little hill in front of him. He heard a noise as if there was a knocking at a fence gate down the direction of the lane. The blows continued, and he soon after heard shots. Then saw people coming up the lane. Heard several guns fired; could not count them; should think there were about 8 or 9. He withdrew in the direction of Mountain and Dorchester St. and passed Koestler's. He was told that a young man named Mason was shot. He then went home.

"Cross-examined he said 'Recognized no one in the crowd and was not close enough to see any smashing in the house, but heard something smashing; did not know what.' He heard the shots after the smashing; did not know wherefrom nor could he see. It was impossible to hear glass smash, as the noise was too great. Would not swear what this distance was off; nor could he form any idea of the number of people present. Did not call on his friends, as it was too late. Was with another young man. Did not walk all the way; there was a little lane he passed through, and as he felt anxious, he ran. Thought the house would be attacked, from the cries he heard. Did not go down the lane towards the house of Mr. Lafontaine more than two steps. Did not see the young man after he was shot or on the occasion. The name of the young man in company was John Sharp. When he ran up the lane it was to see what was going on. His profession is an advocate and holds the situation in the Crown Lands Department. He was at the inquest in consequence of a subpoena he had received from the coroner. Heard the voices of men urging the crowd on; heard cries of 'Tue Lafontaines!' When he came to a stand, the first noise he heard was smashing, then there was a lull, in about two or three seconds he heard the report of firearms. The city seemed excited during the day. Saw the furniture smashed and the stables burned on or about the 26th of April last. He was then standing in Charles Phillip's garden. Did not see any persons that night with firearms or bludgeons."

Both Henry and Frederick T. Judah owned substantial parcels of Montreal property, the former holding, among other parcels, some 55,000 square feet between St. James, Visitation and Ontario streets. (Official Book of Reference, 1871)

F.T. Judah, Q.C. was director of the Montreal City and District Savings Bank in 1897. (J. Castell Hopkins. Canada an Encyclopaedia of the Country, 1898, vol. 1, Pp. 471-72)

Frederick Judah, Q.C., testified as a landlord before the Royal Commission on the Relations between Capital and Labor. He was questioned by its Jewish member, Jules Helbronner. (Report, Pp. 660-63)

As intended, his expert testimony as landlord in various parts of the city and as banker established a vivid picture of Montreal housing of social classes.

The tenements in the east end came to him by purchase, actually by seizure for debt. Three-room apartments, of which there are three to a building, rent for $3 - $5 per month, on an annual rental; payable to a collector who receives 10% for his trouble. Each apartment has an area of 22' x 30', divided into three rooms. The privies are in the middle of the grounds behind each of these three-storey tenement buildings. These tenements constituted a better investment, but were much more trouble to maintain.

In the west end of the city his houses are mostly self-contained cottages with their own plumbing, built in 1878, medium tenants, mostly mechanics and bookkeepers, paying $10 - $15 a month. A depression some years ago reduced rentals by a third for a time. Such mechanics earned about $3.00 a day. Judah claimed to be the first to introduce these self-contained houses in Montreal with water closets and baths. Rentals in New York were double the Montreal rates.

Each tenant pays his own water taxes and heats his own apartment by coal stoves in the hall, called self-feeding stoves.

Mechanics, particularly French-Canadian, became proprietors of their own homes on lots they bought. The banks had good experience with them. French Canadians live more economically than people of other races; they are prudent, frugal and industrious. The City and District Savings Bank found that a large proportion of them are in the east end; they compare very favorably with deposits in other parts of the city.

The excitement and the risks of urban transport, to man and motor, in 1878 was in runaway horses.

Edgard Andrew Collard reports three runaways in mid-Montreal on a January 1878 day, one of them bearing Mr. Judah:

"At 2 P.M. Mr. Judah's horse ran away in Dorchester St., near the Windsor Hotel. It halted on Mountain St. One of its legs was broken. Judah had the horse killed." ("Runaway Horses", in Gazette, Apr. 14, 1979)

He married Sarah, the daughter of John Coins of the Glasgow family of Sir John Sterling.

The Storied Province of Quebec is ecstatic about the gentle personality of Frederick Thomas Judah, his love of art, horses, flowers and the ornamentation of grounds surrounding real homes such as his own Villa Rosa, long one of the exquisite object lessons of Montreal living, on Dorchester St., where he died in 1901.

A daughter of F.T. Judah, who married Dr. J.S. Ibbotson, was named Miriam Wurtele in infancy.

One of their sons was Ernest Woodward Judah, engineer, whose son was Ernest Lionel Judah, for many years associated with McGill University. His son is John Lionel Judah of St. Bruno, P.Q.

The family crest bore the Royal Lion of Judah, with the motto: "Who Dare Rouse Him".

THE HAYS FAMILY

Andrew Hays (1742-78) was in Montreal by 1763. Of Netherlands Jewish origin the family had established itself in New York in 1725.

In 1763 Andrew Hays was living at 15 rue St. Jacques. Later we find him at 12 St. Paul St.; still later at 7 St. Sacrament St., opposite the Merchants Exchange. He figures in the history of Canadian porcelain as the representative in the British colonies of the American china manufacturer, Charles Cartlidge & Co., maker of porcelain door furniture and Parian busts and china buttons.

The firm also represented the Staffordshire pottery firm of Ridgeway, Bates & Co., an English manufacturer of Parian busts. (Montreal Gazette, Apr. 14, 1851 and May 16, 1856; Elizabeth Collard. Nineteenth-Century Pottery and Porcelain in Canada. Montreal, McGill University Press, 1967. Pp. 182, 196)

His signature appears on the 1774 petition of the colony's residents for the institution of a legislative assembly.

When the congregation was organizing to erect a house of worship Andrew Hays was among its most useful supporters.

Andrew Hays married Brandele Abigail, the daughter of Lazarus David.

His daughter Phoebe (1779-1841) was very aware of her David descent. She married Isaac Valentine who acted as minister for years after the first synagogue fell into ruin. She called herself Phoebe David Hays, and it was under this name that she appears on the list of contributors to the congregation building fund of 1835 with her gift of $100.

Her sister Catherine (1760-1861) married James Solomons; another sister Rachel (1782-1844) was the wife of Phillip Hofstetter. (Gérard Malchelosse, "Les Juifs dans l'histoire canadienne," in Cahiers des dix, no. 4, 1939, Pp. 167-95, and M.H. Stern. Americans of Jewish Descent, N.Y., Ktav, 1971)

This is confirmed by a document of Nov. 5, 1833 in the Sulpician archives in Montreal (Carton 135, dossier 9), a transport to Rachel Hays, the wife of Hofstetter, by McGill, executor of Stanfield. However, another document in the same dossier refers to Catherine Hays as the wife of Phillip Hofstetter. It is a transfer to her of an obligation by P. McGill, as executor of the estate of G. Stanfield. There is also a transport of an obligation consentie to her in which she is referred to as the widow of James Solomon, merchant. (Carton 135, dossier 9) Another document Sept. 2, 1833, is a quittance by P. McGill of a consentie to Catherine Hays, widow of James Solomon. (Tiroir 107, dossier 8)

A possible explanation lies in the age differences of the sisters. Catherine was older by twenty-two years and lived to the age of 101. She had married Solomons, but he died leaving her a widow. After her sister Rachel died in 1844, Catherine married Rachel's widowed husband Hofstetter.

The same collection preserves the transport of an obligation to Phoebe Hays, the wife of Valentine, Dec. 5, 1834. (Carton 135, dossier 9)

Stern tells of another daughter of Andrew Hays: Frances. The same archives hold two documents of obligation to her by Notre Dame Parish, dated July 15, 1825 (tiroir 108, dossiers 8 and 14). Frances Hays married Esdeile P. Cohen of Swansea descent, on Aug.12, 1829, in Montreal. She passed away in Philadelphia in 1865.

A 14-year-old son Lazarus (who does not appear on the genealogical chart of the Hays family in M.H. Stern, Americans of Jewish Descent, a Compendium of Genealogies. N.Y., Ktav, 1971) was apprenticed to his uncle Samuel David on Sept. 28, 1798. The articles of apprenticeship state that the lad was "to be taught in the said trade and business of a merchant, which the said Samuel David now useth, and with him, in the manner of an apprentice, to dwell, continue, and serve from the day of the date hereof, for and during the term of four years, and fully to be complete and ended.

"During all which term the said apprentice his said master well and faithfully shall serve, his secrets keep, his lawful commands everywhere gladly do, hurt to his said master he shall not do, nor willingly suffer to be done by others, but the same to his power shall let (hinder) or forthwith give notice thereof to his said master. The goods of his said master he shall not imbezil or waste nor lend them without his consent to any. From the service of his said master he shall not at any time depart or absent himself without his said master's leave, but in all things, as a good and faithful apprentice, shall and will behave and demean himself towards his said master and all his during the said term.

"And the said master his said apprentice the said trade and business teach and instruct or otherwise cause to be well and sufficiently taught and instructed, after the best way and manner that he can. And shall and will also find and allow unto his said apprentice meat, drink, washing, lodging, and apparel, both linen and woolen, and all other necessaries, in sickness and in health, meet and convenient for such an apprentice, during the term aforesaid.

"And at the expiration of the said term, shall and will give to his said apprentice, over and above his then clothing, one new suit of apparel, to wit, coat, waistcoat and breeches, hat, shoes and stockings, with suitable linen, as is fit and usual for such an apprentice." (Montreal Municipal records; J.R. Marcus, American Jewry. Pp. 474-75)

BARRACK HAYS

Andrew Hays' brother Barrack, a New York merchant and auctioneer, had stoutly maintained his loyalty to the Crown during the Revolution. As a known partisan (he had served as an officer of scouts), he found it advisable to leave the country after the war. Influenced no doubt by the fact that his brother Andrew was established as a merchant in Canada, Barrak fled across the border. In a 1783 petition to Governor Frederick Haldimand at Quebec, Hays asked, as a reward for his fidelity, for some form of employment, preferably in his profession as a vendue master, or auctioneer. (Public Archives of Canada, Haldimand Papers, MG 21, B, vol. 13, Pp. 335-36; J.R. Marcus. American Jewry Documents. Pp. 282-83; described in American Jewish Archives as part of Carleton Papers; Canadian Jewish Archives, original series, no. 5, 1959)

Barrack (or Barruch) Hays died in the West Indies in 1845.

His son John (1770-1836), Indian trader in Illinois territory, had entered the trade in the employ of a Canadian firm. He settled in Cohokia in St. Clair county and spent his life as one of its leading citizens "retaining his Jewish faith as far as it was possible in a non-Jewish environment." (Clarence I. Freed on the Hays family in the Universal Jewish Encyclopaedia)

The Montreal courthouse preserves the agreement between the Montreal firm of Grant, Campion & Co. of March 4, 1794 and 24-year-old Solomon Hays, son of Michael Solomon Hays, who was the brother of Andrew and Barrak Hays. The document was reprinted in Canadian Jewish Archives, original series, no. 5, 1959)

MOSES JUDAH HAYS

The most prominent Hays of the generation of Andrew Hays' children was his son Moses Judah Hays (1789-1861). He was a pupil of John Strachan at the Cornwall Grammar School, before Strachan was succeeded by John Bethune (later dean), sometime between 1803 and 1812 (according to an 1868 pamphlet without a title issued by Lovell. (J.F. Pringle. Lunenburgh, or the Old Eastern District. Cornwall, Standard Printing Co. 1890, P.243)

Thomas Doige's Montreal Directory of 1819 lists Andrew Hayes (sic) as householder at 15 St. Jacques St., and Moses Hayes at the same address, "of the Engineers Department". He was at the time with the Royal Engineers' Office. (Carman Miller. Biography of Moses Judah Hays in Dictionary of Canadian Biography)

On Aug. 3, 1825 he married in New York, Abigail Levy, (1803-40), the descendant of Simon Levy who had come to Montreal in 1760 and of his son Rabbi Myer Levy. Her father was Jacob Levy (1753-1837). (M. Stern. Americans of Jewish Descent, P. 120)

This progenitor of Mrs. Hays was one of the interesting pioneers of Canadian Jewry and a contemporary of the Harts.

A record speaks of Simon Levy in Montreal in 1760 when he delivered an order of merchandise on behalf of Samuel Jacobs to one Mayor Elliot at Crown Point, N.Y. (Marcus. Early American Jewry, vol. 1, p. 207)

Another document from Levy's early business history of 1760 survives in a claim laid before Col. Bouquet on October 12, 1762 by James Gillespie at Fort Pitt. Wrote Mr. Gillespie,

"In the year 1760 your Memorialist threw in a Parcel of Goods with Messrs. Levy and Trent, one Thomas Mitchell and Alexander Lowry, which goods we sent to Detroit as an Adventure under the Direction & Management of Lowry.

"According to the Article of our Agreement Each Person should Receive of the Profit in Proportion to his Stock.

"Your Memorialist and Mitchell joyned stock, so as between us to make up very near a third of the Total Company Stock. Notwithstanding, when Lowry sent to this Post the Remittances in Peltry, Mr. Levy made Four shares or Divisions of them, and gave your Memorialist and Mitchell but one between us, whereas we should have a third very near, which, when your Memorialist young man Represented to be an Unfair Division, Mr. Levy said they should be allowed the Difference out of a Bill given Lowry by Captain Campbell, when paid by the General; which Treatment your Memorialist thinks to be very unfair as Peltry then sold high in Philadelphia: Consequently to Advantage to those who sent them down.

"Your Memorialist his share of goods, when joyned with Mitchell as above, amounted to about a Hundred Pounds more than what Mitchell put in. Mitchell and your Memorialist share of the money Received for the Draught amounted to about £199 current, which sum was Intirely due to me for the Above Reason, and which sum Mr. Levy gave under his hand should be Paid me when the cash was Received.

"Notwithstanding when the Cash was Received Last Fall Messrs. Simon Levy in the most fradulent manner converted the whole sum of Money Received of the general to their own use, and when your Memorialist claimed his Proportion as above, Levy Pleaded for Excuse, that Mitchell was in their Debt of a long standing; and so they verry Generously Placed the whole to the Credit of Mitchell's account.

"That this is a Manifest Fraud your Memorialist conceives your Honour will allow, and most Humbly Requests for redress which shall always be Acknowledged in the most gratefull manner." (Public Archives of Canada. Bouquet Papers, Add. MSS. 21658, MG 21, vol. A 28, Pp. 184-85)

There exists a record of a legal case against him in 1765. At the time John Franks and Eleazar Levy were bondsmen for him. (PAC, MG 11, C042, vol. 57, P.21; microfilm reel B-42)

Simon Levy became one of the first Jewish landowners in Montreal when he bought a lot on Notre Dame St. in 1767. (Les Origines de Montréal, P. 145, 105L2)

His signature appears on a roll of subscribers to the honesty and integrity of Capt. Philip Payn of Quebec in the summer of 1766. (Quebec Gazette, Aug. 18, 1766)

Simon Levy was licensed to sell liquor in Dec. 1766 (Quebec Gazette, Dec. 15, 1766) and again in 1769. (ibid., Aug. 24, 1709)

In 1771 and 1772 he is recorded as applying for licenses to sell liquor.

Levy was among the November 12, 1774 petitioners for the restoration of the rights of English citizens challenged by the new act for the government of the colony.

The business records of G. Young and Edward Gray for the years 1777-80 indicate shipments of ashes received from Simon Levy. (MG 19, A 2, Ser. 3, vol. 54, Account of George Young and Edward W. Gray, 1777-80)

He appears in the synagogue records of 1779 among those who pledged the very strong undertaking not to desecrate the Holy Name by making aspersions against members of the congregation.

He was also among the contributors towards the acquisition of an additional Sepher Torah.

Simon Levy was witness at the marriage of Chapman Abrahams. (Alan D. Carré and Malcolm H. Stern. P. 43) In 1784 Levy was among the witnesses for the Rev. J.R. Cohen in his suit against the congregation.

The father of Mrs. Hayes died in New York on May 1, 1837 at the age of 84. The Quebec Gazette of May 9 refers to him as "one of the oldest and most respectable citizens in that city."

Like his father, Moses Judah Hays was active in the affairs of the Jewish community and at one time was president of the congregation.

In Sept. 1832 Hays petitioned the Court of the King's Bench to implement the colonial act which granted Jews the right to a synagogue.

At the meeting convened on Oct. 12 in compliance with this petition he was elected one of the trustees, and on Oct. 29 was entrusted,with I.Valentine, to purchase a lot on St. Urbain St. in the St. Lawrence Suburb from Mr. Laroque as a site for a synagogue. As trustees of the David David estate they offered £150 towards the erection of the buildings.

In Jan. 1834 Mr. Hays turned over to the secretary "two Pentateuchs and dresses, one coronet and a piece of silk," while B. Hart turned over one Pentateuch and a pointer which had been "in the synagogue at Benjamin Hart's". (Minutes, Jan.16, 1834)

He also petitioned in Sept. 1837 for the second such meeting, which was convened in the offices of his water works on Oct. 10. He was reelected trustee at this meeting.

Moses J. Hays was treasurer of the congregation when it was engaged in erecting the Chenneville St. synagogue, in 1835. His president was Isaac Valentine; Benjamin Hays was trustee.

Hays contributed $100 towards the building.

J.D. Borthwick records that M.J. Hays planned and superintended the construction of the Chenneville St. synagogue, the second structure in the history of Canadian Jewry, in 1837, the first Jew to be thus entrusted in Canadian history. On Oct. 10, 1837 he was authorized to close with Mr. Whitelaw, according to plans approved by Mr. Hays. (Minutes, Oct. 10, 1837)

At this meeting, Mr. Valentine agreed to act as minister pro tem.

Later Hays served as president.

When the synagogue was consecrated in Sept. 1838 the trustees decided that "M. J. Hays is entitled to prayers of thanks of the Congregation for the elegant way he had caused the synagogue building to be made. The Trustees know of his difficulties due to lack of funds and cannot express their obligation for the liberal manner in which he advanced means to complete the building." (Minutes, Sept. 17, 1838)

In 1847 Mr. Hays was active in erecting a home for the minister, the Rev. Abraham de Sola. (Minutes, March 9 and May 8, 1847)

He was the principal acting for a group of descendants of David David who secured a plot of eighty square feet in the cemetery of the Spanish and Portuguese cemetery on Jan. 24, 1869 to be used as a David family plot. Advocate Eleazar D. David, Dr. Aaron Hart David, Moses Eleazar David, and his sister Catherine Hays (widow of James Solomon) were associated with him.

When Hays and Benjamin Hart were named justices of the peace in 1837, following a dramatic conflict of forces in 1832, their documents bore the signature of Her Majesty Queen Victoria.

Hays was the leader of a most important, though short-lived community initiative in 1847: the Hebrew Philanthropic Society, - the first organized activity of the Montreal group with concerns formally beyond the religious.

The Society was the progenitor, in a discontinuous line, of the Hebrew Benevolent Society, of the Baron de Hirsch Institute, of the Federation of Jewish Philanthropies and of community services, of the Allied Jewish Community Services, of the Combined Jewish Appeal, of the United Jewish Appeals across the country, and of the considerable network of welfare and of community organizations which are so central and so profound a component of Canadian Jewry.

The basic document of this institution is the lengthy report of its first annual meeting of June 18, 1848 which appeared in the Philadelphia Occident, (vol. 6, Pp. 368-70, reprinted by Sack, Pp. 139-41).

The report indicates a surprising activity. The image of the Jewish community as a sub-society of independent merchants, which was the base of the Hart-Joseph-Hays-Judah-Jacobs-Franks-Solomons community, alters with the appearance of declining families. The number of cases is unexpectedly large.

There are the "deserving cases...respectable but decayed suffering from a modest unwillingness in forcing their claims upon the attention of their co-religionists." The report is precise: there were ten such cases, in addition to "one pensioner."

More numerous and historically more significant, we now hear of immigrants who are destitute. This is the first intimation of the great chapter of Canadian Jewish history: the mass immigration of Jews in need of assistance. The 29 immigrant cases mentioned in the report are the precursors of the tens of thousands to come in the next century.

M.J. Hays, president of the society noted the "unprecedented amount of immigration, and that too of the worst possible description as the amount of distress and sickness but too fatally proved."

His concern for their welfare is the beginning of the endless activity that later assumed the forms of the Jewish Immigrant Aid Society, the Jewish Colonization Association, the Canadian Jewish Congress, the Jewish Immigrant Aid Services and the numerous welfare, reception and integration agencies.

His annual report even points to the circumstances of this massive group. As was to be the case for so many years to come, the influential factor was U.S. immigration policy.

In Mr. Hays' words, "the number of arrivals of poor Israelites last summer arose from the circumstance of immigration to the United States having been rendered more expensive and select; since that government in consequence of the fatal visitation which more or less accompanied the immigration of last year, had taken the precautionary measure of allotting a certain number of square feet to each person, whereby they might secure the arrival of the better and healthier class of immigrants, the result of which step was to pour into Canada an unprecedented amount of immigration." (Sack, P.141) These were themes to be recurrent in Canadian history for many years

"The object of the Montreal Hebrew Philanthropic Society is to promote a more just and efficient mode of relief.

"The Montreal Hebrew Philanthropic Society was established from the same motives which have given birth to similar societies in other places. It has resulted from the deeply-felt conviction that 'Union is Strength', and that if Israelites would combine in their acts of charity, that they would effect a much greater amount of good, and would be enabled to afford such an extent of relief to deserving cases, which individually, they would find it impracticable... "

Perhaps less intentionally M.J. Hays' report reveals the welfare philosophy of the group.

But to a large extent the society was set up for the benefit of the charitable contributors and their protection against petitioners, "the professed and sturdy beggars by repeated and

pressing importunity, obtained an undue amount of relief, that an executive whose duty it is, and whose opportunities would necessarily be numerous, to inquire into the worthiness of applicants, was a desideratum, and that most persons are satisfied with giving their alms, without caring or inquiring whether they are properly bestowed or not...

"The Society uses every precaution, and institutes every possible inquiry to assure itself that the applicants are really what they pretend to be."

Basically, it was a philosophy of Jewish mutual aid, "to alleviate the distress and satisfy the present wants of almost every Israelite, compelled by destitution to seek the charitable aid of their brethren in Montreal..."

It extended beyond the handout of an average nearly $3 per person for the year.

"Its object is not to relieve the pecuniary difficulties only of the poor Israelites in Montreal, but it seeks at the bedside of the sick, in the attic, the loft, the hospital, even at the grave to prove that Jewish benevolence, when invoked by the plaintive voice of suffering, is not invoked in vain; that it has no limit, and that mercenariness can erect for it no barrier over which it will not gloriously and triumphantly pass." (Sack, P. 140)

Among the business papers regarding M.J. Hays' affairs there survive documents 1830-33 including two transports and a quittance by the parish to Sarah Hart in transactions also involving Hays, I. Valentine and P. McGill (Sulpician Archives, tiroir 107, dossier 8), and an act of concession of land on Côte St.Antoine St. by J.-V. Quiblier, Sept. 19, 1839. (tiroir 18, no. 621A)

Borthwick writes, "He was a man of considerable prominence, whose restless spirit of enterprise led to his originating many important public improvements." (P. 477)

Miller notes that Hays was secretary of the Mechanics Institute and, in 1846-51, president of the Agricultural Society of the County of Montreal. In 1849 he was named to the central health board.

Hays left a mark on the history of Montreal. When the Bank of Montreal was organized in 1817 Moses Judah Hays was among its first stockholders. He was director of the Joseph Masson Gas Company (F.J. Audet. "1842", in Cahiers des dix, no. 7, Pp. 243-44) and of the Montreal Savings Bank.

On Feb. 19, 1831, the special committee of the Assembly rejected his petition for the right to operate a steam ferry between Montreal and Longueuil.

According to Maj. John Richardson, M.J. Hays was designated to be a victim of the 1838 plot of the Castors, together with Benjamin Hart. As Richardson tells it in his Eight Years in Canada,

"The Montreal Water Works, the property of Mr. Hays, another wealthy Jewish merchant, was to have been confiscated to the use of the Provincial Government, while the proprietor himself, with numerous other Christian merchants, were to have been kept as prisoners until ransomed at high prices, to benefit the Provincial Government also." (P. 62)

Hays was an officer in the Grand Lodge of the Free Masonic Order in 1850: grand sword bearer. (J. Starke's. Montreal Pocket Almanac for 1850. P. 96)

Thomas Porteous, his associate in the Bank of Montreal, had built an aqueduct to supply Montrealers with fresh water in 1825.

Camille Bertrand tells the early history of these installations in his Histoire de Montréal (1942. vol.2, P.74).

The project had been undertaken by a partnership of leading Montreal businessmen. The firm found much difficulty in completing the works, and the Sulpician fathers had to rescue it, but they,too, were forced to give up the effort.

"In 1832 a Mr. Hays assumed the management. He installed two cisterns with a capacity of 250,000 gallons above a three-storey stone house on Notre Dame,east of Bonsecours. The wooden conduits were replaced by steel pipes.

"The aqueduct had cost the proprietors $340,000 between 1801 and 1838. But, with the rapid development of the city along the mountain side, the thirty-foot high cisterns could not supply the new homes. The city was therefore forced to build a reservoir of 210,000 cubic feet on the site of the present Carré Square."

In 1832 Porteous sold the installation to Hays and to Hays' brother-in-law, Isaac Valentine, for £60,000.

The latter had married Phoebe Hays in 1820 and had settled in Trois-Rivières. Earlier, Valentine had performed ministerial functions for the Montreal congregation. (L. Trepanier, "C'est un Israélite qui a occupé le plus longtemps le poste de chef de police de la Ville de Montréal," in La Patrie of Apr. 2, 1950; Le Devoir, Feb. 24, 1940; text of radio program by Leon Trépanier on Ici Montréal program, CKAC, May 23, 1948; and B.G. Sack in Eagle, Apr. 30, 1950)

Carmen Miller refers to this purchase as the first of Hays' reverses. The new owners replaced the 4" conduits, which had been put up as early as 1801, by 10" iron pipes, installed a more powerful steam pump and constructed two cisterns over a three storey stone house on Notre Dame St. a little east of Bonsecours, owned by Hays.

The Montreal Directory of 1844-45, edited by R.W.S. Mackay, gives the address of the waterworks as 28 Notre Dame.

The water was pumped by steam power from the river which then ran near the corner of Friponne and rue de l'Eau at Bonsecours Market.

The condition of water supply in the city when Hays took over is evidenced by an advertisement he inserted on May 21, 1833,

"The Tenants to the Montreal Water Works are hereby notified that to insure a supply of water to all parts of the City during the summer months, as well as to those Tenants in St. James and part of St. Paul streets, who have been deprived of the same for the last twelve months, it is deemed advisable to make the following arrangement, viz.:

"From the Place d'Armes, West of the City, the water will be on every day from six o'clock in the morning until noon; and

"From the Place d'Armes, East of the City, from noon until six o'clock the following morning.

"The above arrangement will continue until the first day of October next, after which period the Company flatter themselves that all difficulties will be at an end.

"The Company at the same time take leave to notify the Tenants that Mr. George Garth, Master Plumber, is alone authorized to superintend the works, and that they will not be accountable for any accidents that may occur, if plumbers other than those employed by the Company, have access to the water Conduits.

"For the Company, J. Hays." (Daily Advertiser, July 8, 1833)

When M.J. Hays organized the acquisition of the Montreal Waterworks on Jan. 6, 1834 the 80 shares of the company were distributed: 16 shares for himself, 12 for his sister Phoebe Valentine; 8 for his wife Abby (Abigail); 8 for his sister Rachel; 12 for his sister Catherine Hoffstetter, and 12 each for his kinsmen E.D. and Dr. A.H. David. (M.J. Hays manuscript "Amount of Purchase of the Waterworks £15,000" in L.M. Lande, Canadian Historical Documents and Manuscripts, Montreal, 1980. no. B22, P. 232)

F.C. Smith notes that Hays "replaced the small pipes in the streets by pipes of ten-inch diameter and installed a more powerful engine. In 1843 two engines were at work with a pumping capacity of 93,000 gallons. By this time there were laid in the streets fourteen miles of pipes.

"In this year the first agitation was started for the city to own the waterworks. It was kept up till 1845, when the municipality made an offer of £50,000 for the plant, which was accepted." (The Montreal Water Works, its History, Compiled from the Year 1800 to 1912. 1913. P. 14)

Rumilly notes that the new site was more elevated than Hays' house on Notre Dame St. (Histoire de Montréal. Montreal, Fides. II. 317)

In the course of time, when Hays sold the waterworks to the municipality, the asking price had been £100,000, but the city purchased the aqueduct building which became the chamber for city council in 1844 for £50,000. The council met in rooms below the reservoir which had a capacity of several thousand gallons. "One might say that Hays' building was the first City Hall." A crack in one of the cisterns during a council session threatened to drown the city fathers. (Camille Bertrand. Histoire de Montréal, vol. 2, Montreal, 1942, Pp. 74, 142. Trépanier notes that Jean-Baptiste Homier, later city councillor, was his authority for the incident; Miller. Biography of Hays in Dictionary of Canadian Biography; L.-P. Desrosier. "Mes Tablettes," in Les Cahiers des dix, no. 12, 1942. P.90, and F.-J. Audet. "1842" in Cahiers des dix, no. 7, P. 244)

After the flooding the municipal council considered such housing unworthy of the administration of so important a city, the capital of the Canadas. (Rumilly, II. 300)

As the newly reorganizing congregation was gathering its resources for building a synagogue, under the leadership of Hays, one of its meetings -- on Oct. 10, 1837 -- took place in the offices of the Water Works Company. (Solomon Frank. Two Hundred Years of Synagogue Life. 1968. P. 95)

A century and a half later two historians of Westmount, Montreal's Little Mountain, note that not far from the Hurtubise House are four more examples of the area's oldest architecture. They were built in the mid-1800's by Capt. Moses Judah Hayes, Montreal's chief of police and one of the first Jews to hold public office in the city. At one time the houses were rented to the Governor General of Canada as staff quarters. (by Aline Gubbay and Sally Hooff; cited by Donna Gabeline in Gazette, Sept. 20, 1979)

Moses Hays was named in Aug. 1843 to the Montreal committee which proceeded to a Saratoga meeting to promote the construction of a canal connecting Lake Champlain with the St. Lawrence River. (The Pilot, Aug. 14, 1843)

In 1845 Hays was named to the commission of inquiry which investigated the workings of the bureau of public works, on which John Redpath and F.-A. Quesnel also sat. (Biographies of J. Redpath and H.H. Killaly in Dictionary of Canadian Biography)

In 1845, possibly in appreciation of his services to Montreal in supplying the city with water for years, he was named chief commissioner of the city's police force of 100 men, a post in which, as Leon Trépanier notes, "he served in that position longer than anyone else in the history of the city, a position that put his firmness, his sense of discipline and his tact to the test. It is proof of his competence that he was able to serve with all satsifaction under eight mayors, in spite of his relatively advanced age. It was one of the most critical moments in the history of Canada."

A printed report on crime in Montreal in 1857 by Hays survives. (Sulpician archives, tiroir 60)

He held the post for sixteen turbulent years, until his death in 1861.

The plague of cholera (imported by immigrant fugitives from Europe) and internecine strife harried the country's rulers. In these tragic episodes Hays played a heroic and prominent role.

In the catastrophic plague of '46-'48 which was called "ship-fever" (typhus) and caused 5,000 deaths in a single year, Hays threw himself into the struggle to save life and assuage suffering with all compassion.

Montreal police were mobilized during the summers of 1846 to 1848 to supervise the arrival of 32,000 immigrants into the port and to help the hygiene officers examine the newcomers and to watch over their comings and their goings after disembarkation. His report of the frightful ravages of that pestilence and his unrelenting efforts as Chief Commissioner of Police is moving in the extreme. The small force under his command — forty-five all told — suffered severely, almost half of them dying or becoming gravely ill. Hays nevertheless personally waged the grim battle with a heroism rivalled only by his efficiency, as these lines from his report modestly affirm:

"By God's good providence I escaped unscathed whilst so many of my co-labourers fell around me... Policemen were stationed at all bridges over the canal to prevent the panic-stricken folk from getting out of the 'emigrant' sheds. Many tried to escape and did, and were afterwards picked up sick, dying, or dead....To meet this emergency, I organized a sort of ambulance which was kept constantly on duty at the Central Station."

Many prominent members of the Montreal community perished in this calamity. Hays' report makes special reference to high dignitaries of the Roman Catholic hierarchy and other denominations to whom he refers in his sympathetic tribute a "my co-labourers."

A document from another Jewish citizen, his kinsman Aaron Hart David, survives to confirm the description of this tragic moment in Montreal history.

As a police magistrate M.J. Hays had occasion to deal with such complaints as F. Scipord's who feared the loose handling of gunpowder near his home. His petition portrays life on Montreal city streets a century and a half ago,

"Having understood from Mr. Eustache Prevost that he intends re occupying certain insecure Buildings with Gun Powder at Cote St. Antoine, to which I beg to protest for the following reasons.

"1st One of the Buildings opens on the Road and the other is -- attached by Windsor Sheds, in which site there is at times deposited many Hundred Kegs of Powder.

"2nd that it is within 20 yards of a Wooden occupied Dwelling House.

"3rdly that it is under 100 yards from a Dwelling House which I sometimes occupy; that I have occasionaly observed the road near the Magazine almost covered with powder etc. etc. and I therefore trust the Magistrate will require Mr. Prevost to find a more secure place to lodge his powder." (L.M. Lande. Canadian Historical Documents and Manuscripts. Montreal, 1980. no. B476, Pp. 493-94)

Hays' calamities were aggravated by the 1848 failure of the Montreal Savings Bank which resulted from poor administration, followed by a decline in the values of shares and real estate on which he had lent as bank manager from February, 1845 to 1846. Between 1848 and 1852, during a period of widespread depression, the bank made many demands on him as he had defaulted on his loans.

Nevertheless, in 1848 Hays built an elegant hotel and theatre on a valuable property he owned on the western side of Dalhousie Square, in the rear of an immense block of four-storey homes. This initiative was to replace the Royal Theatre. Hays' theatre was at the rear of his new stone structure. The music of a German orchestra and the programme of Viennese dance music were a feature of the cultural life of Montreal at mid-century. (Rumilly. II, P.317)

Hector Berthelot locates Dalhousie Square and Hays' theatre on the site of the Viger Station which was still in use in 1916. (Montréal, le bon vieux temps, edited by E.-Z. Massicotte, first series. Montreal, Beauchemin, P. 83)

Hays' theatre on Dalhousie Square was a centre of the intense interest and vivacity at a time when entertainment was not widely packaged in cans or casettes and was not freely available on the air and from outer space. The repeated visits of such entertainers as magician Adrien in this theatre were recalled during many years. (E.A. Collard, "Magician in the Market", in Gazette, March 14, 1981)

Another tragic episode of Hays' career as Chief Commissioner of Police was the burning of the House of Parliament in Montreal on April 25, 1849, by a mob of British loyalists.

They became insenced when Lord Elgin ratified the bill which accorded indemnities to the victims of the 1837 rebellion. Their ire extended beyond the parliament building to the persons and homes of the legislators and the cabinet ministers.

"It was a distasteful task for Hays, who was, of course, a loyalist himself. With his small force he manfully coped with the enraged crowds and arrested many. His efforts to quell the riots by police action alone were, naturally, futile; and he was at last compelled to appeal to the militia. The loyalist 'rebellion' was soon over; but not until much damage to life and property had been incurred." (Jewish Standard, Aug. 15, 1959. P. 11)

Frederick P. Judah was one of the witnesses in a coroner's inquiry during the riots. His testimony vividly records the atmosphere in the city which it was the duty of Hays to restore to order.

"On the night before last, at almost a quarter to nine, he was out walking on Notre Dame Street and St. James Street towards the Haymarket. He heard a noise in the direction of St. Antoine Suburbs, and as several of his friends and relatives lived there, he wished to see what was the matter. He walked to the suburbs and perceived in advance of him a crowd of men, boys and young men, screeching and bellowing. He turned up the street called Cemetery Street and went to Mountain Street. He heard shouts still in the suburbs, and continued to walk on until he came to Bellevue Terrace, directly opposite the lane in which Mr. LaFontaine's house is situated. He heard shouts down the lane, but from his position he could see nothing, as there was a little hill in front of him. He heard a noise as if there was a knocking up fences or gates down in the direction of the lane. The blows continued and he soon after heard shots. Then saw people coming up the lane. Heard several guns fired; could not count them; should think there were about eight or nine. He withdrew in the direction of Mountain and Dorchester Streets, and passed Koester's. He then went home.

" Cross-examined -- Recognized no one in the crowd, and was not close enough to see any smashing at the house, but heard something smashed; did not know what. He heard the shots after the smashing; did not know where from, nor could he see. It was impossible to hear glass smashed as the noise was too great. Would not swear what distance he was off; nor could he form any idea of the number of people present. Did not call on his friends, as it was too late. Was with another young man; did not walk all the way; there is a little lane he passed through; and, as he felt anxious, he ran. Thought the house would be attacked, from the cries he heard. Did not go down the lane towards the house of Mr. LaFontaine more than two steps. Did not see the young man after he was shot, or on the occasion. When he ran up the lane it was to see what was going on.

"His profession is an Advocate, and he holds a situation in the Crown Lands Department. He was at the inquest in consequence of a subpoena he had received from the Coroner. Heard the voices of men urging the crowd on; heard cries of 'To LaFontaine's!' When he came to a stand, the first noise he heard was smashing; then there was a lull, and in about two or three seconds he heard the report of firearms. The city seemed excited during the day. Now the furniture smashed and the stable burned on or about the 26th April last: was then standing in Charles Philips' garden." (The Pilot, Aug. 21, 1849)

The coroner's jury investigating the shooting of W.B. Mason during a mob attack on the home of Hon. Louis Hippolyte Lafontaine heard Magistrate Benjamin testify on Aug. 22 and 24.

"The answer to my letter from Capt. Wetherall was that he would be on the qui vive and would visit me during the night. I expected the musketry would come up, if they saw the mob take that direction and if they could come up on time. It was essential that we warn the mob, there at Mr. Phillips' garden at the back of my premises. They could have outnumbered me at the back. The house is about 20 arpents and a quarter from the gate."

On the 23rd he testified, "I suppose the shots did not come from the crowd because they would not do it. I saw the flashes from the house just as there were these fleeing there was a rush at the front door. I mean the people in the house rushed out at the front door and fired, and I saw flashes from the side of the door. I could not say whether the shots (the rest) were from the interior. I heard a great number. I think the twenty afterwards came from the house. There were, as

I ran away, the crowd were headlonging where the shots were fired. I could have heard if they came out to the door and spoke. I think any gentleman if he had come out of the house would have been safe among the mob. I mean that he would not be hurt. There did not appear to be any leaders, no head man, everybody was leader but I was not. I have not heard of young Mason being a mob leader. I did not hear that deceased was at Mr. Lafontaine's house on the 25th of April." (Pilot, Aug. 23 and 25, 1849)

Rumilly records that when the Montreal mob destroyed the legislature building with its paintings, archives and precious library, "Moses Judah Hays offered his theatre to house the Parliament and the administrative services. The government accepted immediately. Functionaries set up their writing desks in the wings where a year earlier Viennese dancers performed with the cellists of the German orchestra. The Parliament sat in the great hall under the protection of troops." (II. 322)

Parliament sat there as Hays' tenants from April to the end of May, until its removal to more secure Toronto in the fall. (Leon Trépanier. "L'Emplacement de la Gare Viger," in La Patrie, Oct. 29, 1950)

The parliament had rented his premises for six months, but had sat there for a shorter period. The landlord had to petition the Legislative Council of the United Province of Canada on Aug. 5, 1850 "praying that the balance of rent due to them for the occupation of the Masonic Hall by the Provincial Legislature may be included in the estimates of the present session." (Journals, P. 172)

The Hays Theatre was destroyed in a vast fire which ravaged most of the city,from St. Lawrence and De Montigny (then Mignonne) to the Pied du courant on July 8, 1852. This fire began in Hays' home at nine in the morning. By the end of the day it had come under control, when a tramp set fire to the Hays stables behind the theatre and began a new conflagration.

Edgar Andrew Collard brings the testimonies of active participants in the fateful events of the day, among them Maj. George Ranken of the 22nd Regiment.

"By the time Major Ranken reached Dalhousie Square the fire was 'to the highest degree grand and terrific.' An enormous building owned by the eminent Jewish businessman, Moses Hays, was on fire. It incorporated a hotel (Hays House), a theatre (Hays Theatre), shops and offices. In two hours nothing was left of the building. Most of the buildings around the square went down, one after the other.

"Worn out, at two o'clock in the morning, Major Ranken went to his own house nearby. To his surprise, it was still there. After 'a fevered sleep of an hour and a half,' he got up and went to the wharf. There he saw 'all around, furniture and baggage of every description, and groups of poor men and women.'

"About 10,000 homeless people had to be sheltered. Some were taken into convents, into City Hall, or into the Emigrant Sheds at Point St. Charles.

"Most gathered in the open on the Champ de Mars or in a big field below Sherbrooke St., a little east of St. Lawrence Main. The garrison came to their aid with army tents.

"'On Sunday I visited the tents...' said William Weir. 'Such a motley crowd; it looked as if all the gypsies in the world had been brought together in that field. Still, being mostly French, they bore their misfortunes with that cheerfulness which is characteristic of their race.'

"When the fire had burnt itself out about four o'clock in the morning of July 9, a huge portion of Montreal had been reduced to 'a smoking wilderness, covered with chimnies, like a burned pine forest with its scathed and charred trees.'

"Many of Montreal's important landmarks were among the ruins." (Gazette, Feb. 9, 1980)

This final blow reduced Hays, by this time a widower with five children, to a regrettable condition in which he required the aid of his late wife's family.

The gap in Montreal's cultural and public life created by the destruction of Hays' theatre was filled by Jesse Joseph who constructed the Royal Theatre on Coté St. at this time. (Léon Trépanier "L'Emplacement de la gare Viger", in La Patrie, Oct. 29, 1950 and his C.K.A.C. program, May 23, 1948; and Hector Berthelot. Montréal, Le Bon vieux temps, première série, compilé, revu et annoté par E.-Z. Massicotte. Montreal, Beauchemin, 1916, P.85)

A year before his death the census enumerator called on M.J. Hays. Mrs. Hays was in New York. His occupation: chief of police. His family consisted of:

Andrew Hays, born in 1826, resident of New York. Some time earlier he had resided at 20 Aylmer St. He was agent for china and glassware; place of operations: 208 St. Paul W.

Frank J. Hays, resident of New Orleans.

A.B. Hays, born in 1836, and Moses Hays.

Rev. de Sola formally recorded the passing of Mrs. M. Hays: she "died on Feb. 14, 1861, aged 81, and was buried by me on the 16th day of Feb. 1861 in the presence of William Benjamin, merchant, and Simon Hart, of the City of Montreal.

Hays' passing is formally recorded in the register of births, marriages and deaths kept by Rev. Dr. de Sola: Moses Judah Hayes (sic) of the City of Montreal, chief of police, died on the 12th Nov. 1861, aged 62, and was buried by me on the 14th Nov., 1861 in the presence of Dr. A.H. David and Barnett Silverblatt, synagogue clerk."

His son Andrew, listed in the 1851 census as agent for hardware, china and glassware, had his home at 20 Aylmer and his place of business at 208 St. Paul St. With him at this time were F.J. Hays, resident of New Orleans, and A.B. Hays.

THE BENJAMINS

The reference to Magistrate Benjamin introduces a family that is central to the history of Canadian Jewry and establishes another link between Jewish Lower and Upper Canada, seventy years apart in age as they were.

G.Joseph,and Benjamin Hart's peripatetic son Arthur Wellington Hart were among the first Ontario Jews, continuing the tradition of the Montreal merchants who had gone past Ontario into the Upper Country.

Among the Jewish settlers were the brothers Benjamin: Samuel and Goodman. In accepting contracts to supply greatcoats for the troops during the revolt of 1837 and 1838 they established an economic tradition which was followed by the Moss family and later climaxed in the origin of the industrialization Quebec and Ontario in the garment industry.

Late in the 1830's the brothers left Toronto for Montreal. (H. Speisman. The Jews of Toronto, A History to 1937. Toronto, McClelland & Stewart, 1979, P. 12)

In the Lower Canada metropolis, the two brothers and a third, William, became very active in the Shearith Israel Congregation, each in turn coming to serve as president. (A.D. Hart. The Jew in Canada. Toronto, 1926, P. 84)

The Rev. David Piza, predecessor of Rev. de Sola, officiated at the funeral rites of Jacob Eleazar Benjamin, son of Solomon Benjamin,who passed away on May 14, 1844.

Rev. de Sola registered the birth of a daughter, Sarah Maude, to Samuel Benjamin and his wife Leah Myers on Jan. 28, 1849.

The Montreal synagogue register also records the passing of the three-months-old daughter of William and Caroline Benjamin on Jan. 18, 1850.

In March 1845 Samuel Benjamin was elected to City Council, the first Montreal Jew in this office. (B. Sack. History of the Jews in Canada. Montreal, Harvest House, 1965. Pp. 115, 146)

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