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 SEVENTEEN

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

ON THE EARLY HARTS

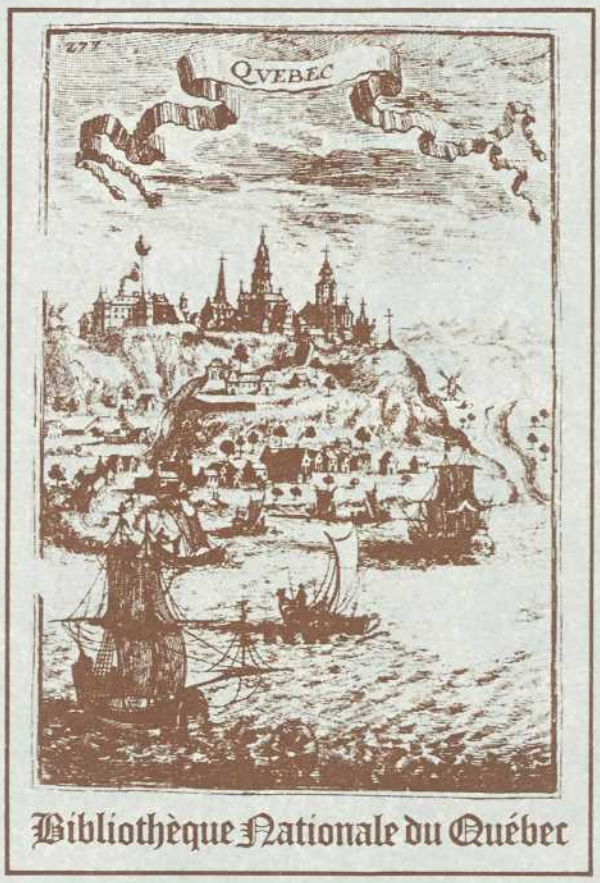
Part 3

Compiled by
DAVID ROME

NATIONAL ARCHIVES
CANADIAN JEWISH CONGRESS

MONTREAL CANADA
1980

ISSN 0576-5528



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Rounding up Journals

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REACTIONS TO THE HART ELECTION

The weekly Quebec Mercury, published by Thomas Cary reported,

"The Messrs. Hart are natives, and an ornament to their town. It is well known how mercantile enterprise tends to the increase of a place; their integrity and active industry have not only been attended with this effect, but have been rewarded by a large and increasing capital and large landed property. Happily, we live under a free, tolerant, orderly and just Government, which has given to this country a constitution whereby the Protestant, the Catholic, and Jew are not inhibited from a seat in the House of Assembly, and prohibiting any matter concerning religion to be passed therein. Besides the admirable tolerating act of the British Colonies, accorded by his late Majesty George II, Chap. 13 in force in this province." (Apr. 18, 1807, Pp. 123-24)

The Quebec Mercury, founded but two years earlier, was the most explicit voice of the colonial establishment, the voice of the Governor Craig-Bishop Mountain-Secretary Ryland-Attorney-General Sewell team, the quintessence of English Toryism, its boundless intolerance, its lack of imagination, its closed little world of ideas and institutions, as Lower put it. Cary's vitriolic style and his violent attacks on French Canadians and on Le Canadien largely created and maintained the animosities. (Marc La Terreur in biography of Thomas Cary in Dictionary of Canadian Biography)

But Hart was a foreigner and unacceptable to some, even though Canadian-born and of parents deriving from England -- autochtonic credentials as good as any held by leading men in the colony where, it should be noted, men deriving from many other countries were also fully accepted.

The Jew still represented to many the classic alien. In a free country and in the political context one man's ornament is somebody else's -- no ornament. So it will not surprise us that in Le Canadien of Apr. 18, 1807 a reader subscribing himself "T" wrote to "Monsieur l'Editeur du Canadien,

"I do not quite agree that the election of a Jew to represent Trois-Rivières proves only the absence of all religious prejudice; I rather believe it should be seen as proof of an influence upon the electors which is more powerful than their sense of duty towards their country.

"As a writer of our own times has observed, the Jews are everywhere a people apart from the body of the nation in which they live. A Frenchman, an Englishman, a German, a Spaniard, or a man from any other nation, if he does not assimilate with the nation among whom he lives, at least his children so assimilate; but a Jew never joins any other nation. He makes it a religious duty, a consistent rule of conduct, to keep separate from other people. Jews, the same author tells us, are united among themselves although they are spread throughout all countries, and constitute an enormous mass which has no other centre than its own. Such a confederation united by a continuous correspondence, when it does not arouse jealousy of the peoples, at the least does not merit their encouragement. By what right can a Jew be entrusted with the care of the interests of an entire people when he thinks only of himself and of his sect?

"I know not by what sort of influence the electors of the city of Trois-Rivières could elect a man of this description: they have their rights, and they will receive all to which their rights entitle them. But the province also has its rights, and they need expect no indulgence after so extraordinary a choice."

A correspondent from Trois-Rivières wrote on April 11, 1807 over the signature of "Christianus" to Le Canadien (Apr.18, 1807),

"Some succint details on a recent -- and I believe unique -- election may not be disagreeable to your readers.

"I have no other desire than to put before the public some rather singular facts which may arouse serious reflection among those who pride themselves on having some influence among the people, or rather among the population. They will see how little the suffrage of this class of society flatters the truly great soul. Others will conclude that, in order to obtain a wide support one need not attain popularity through benevolence but that, to the contrary, whoever oppresses persons without discrimination, who even, on the contrary, is abhorred for his persecutions -- persecutions so numerous that all the inks of sheriffs have been used to seize properties and all the henchmen of Themis could scarcely suffice -- that such a man need only offer himself at election time, after using all vilest

means of corruption, offering presents unworthy even of those who receive them, needy publicans, he will have a sufficient number of votes to win over candidates worthy on all points of the suffrage of their fellow citizens. This is the useful lesson I would wish to give through the means of your journal. May it be effective and not forgotten the coming year.

"We have seen at this election more than a dozen persons utterly ruined by the fortunate candidate, some even now on public sale in consequent of his litigation. We have seen them come forward with a sort of fury to support him. We have seen -- shall I say it? -- a Minister of the Religion of the Prince despoil their sacred nature by voting for this candidate. I cease so that you may cry out, 'O Tempora! O, Mores!'

"I remark that I might have taken too seriously a condition which will but bring laughter to the rest of the province. But you are aware, Mr. Editor, that no one takes the business of his own parish lightly.

"However, for the better amusement of those who may not regard these events as seriously as I do, I will end by telling them that the triumphant candidate had trouble finding three learned electors who could sign their names to certify his election, after overcoming his repugnance at writing on the Saturday before sunset; finally he produced a drunken usher, a school master with no pupils and a cobbler out of work. It should also be told that, at signing the indenture, he objected strongly to 'in the year of Our Lord,' but he conquered his scruples by adding '1807' to his signature.

"What do you say of this, Mr. Editor? What are the wonders of the European continent compared to ours?"

The minister of religion to whom Christianus refers is also recalled by Sulte in his Pages d'histoire du Canada. (Montreal, Granger frères, 1891)

Lambert and Tassé both recalled the Trois-Rivières society of 1807,

"Father de Colonne, brother of the minister of Louis XVI came this 1807 to Trois-Rivières. The parish priest was the Grand-Vicaire Noisseux. Mr. Short, the Protestant minister, in office since 1801, was very much involved in the election since he was an intimate friend of the Hart family. So much for the clergy. It is to be noted that the two Catholic priests did not take part in the conflict."

Sulte tells of the consequences to Protestantism in the community. This Christian group was small and worshipped in the former monastery of the Recollets, separated from the court room only by a board partition. Other rooms housed the office of the prothonotary and the prison; upstairs the sheriff's office and a billiard table maintained by a subscription list.

The chapel badly needed a clock to put a stop to a custom that had grown of setting their watches during Sunday services by the pealing of the bells in the Catholic church at noon while the minister was reciting the litanies; they drew out their watches responding "Save us, O Lord" or "God, help us." Each man was marking the hour even as he was praying for the salvation of his soul.

The English community was small. But a dozen citizens at the most, Sulte notes, attended divine service; particularly as we compare it to the number of French, and if we subtract the three or four Jewish families. (Note the author's assimilation of the Jewish families with the English and Catholic community.

The evident emptiness of the chapel comes from the troubles that agitate the citizenry and from the political jealousies that arose during the recent election which put a distance between the minister and all who did not share his views on these matters; and this in spite of the terror caused by the epidemic current at this time: the influenza. (This illness ravaged Europe and America in 1806, causing many deaths.)

On April 29 the Courier published a similar view of the Harts in Trois-Rivières, from Jacques de Travers, written in a folkloric satire that is quite lost in any attempt at translation.

The contributor dwells on the constituency as still a borough, without the urban status, electorally, of Montreal and Quebec City. In this town "the Harts have drawn considerable capital and property from our arid sands, by means of their honesty and active industry, as their ancestor drew water out of a rock. The Samaritan need search no further, and the poor gather manna every morning." He satirizes the Harts blocking the construction of a port by their private dock. Nor does the city's "ornament" facilitate other judges, other magistrates, courts, prothonotary, militia, justice, etc.

A. Tessier retold the incident in his own manner,

"Great embarrassment when he had to sign the papers validating his election. Could a Jew do this work on the Sabbath day? His repugnance grew when he saw the phrase 'in the year of Our Lord' at the foot of the documents...Subtly he got around the Sabbatical difficulty by suppressing the date and signing simply: Ezekiel Hart,1807." (Trois Rivières, 1535-1938. Pp. 141-42; also in Audet and Surveyer, Pp. 80-81)

The editor also reports that the same election evoked the following impromptu dialogue:

"The County of St.-Maurice to its representative Munro:

"Si Caligula l'Empéreur
Fit son Cheval Consul à Rome,
Ici notre peuple Electeur
Surpasse beaucoup ce grand homme;
Il prend par un choix surprenant,
Un Juif pour son représentant."

"Pour un Ane qui se présente,
A quoi bon se fâcher, Munro?
Ne fais-tu pas que dans cinquante
Il doit y entrer un Zero."

"Munro répond:

"Je fais fort bien que dans cinquante
Il doit y avoir un Zero:
Mais ne fus-je qu'avec quarante
Jamais Juif n'y sera Zero."

"A Messieurs de la Chambre d'assemblée:

"Cet Ane que l'on vous présente
De ce Village est le Héros:
On ne peut composer cinquante
A moins d'employer un Zero."

(Le Canadien, Apr. 18, 1808)

The Mercury returns to this theme in an "Extract of a letter from Three Rivers,

"In this enlightened age, mankind have nearly evaporated the cruel folly of persecuting the innocent thoughts of man towards his Creator. This daring and savage presumption, in former ages, deluged the earth with blood, and can only be viewed as an infringement on the rights of the Creator. In a political point of view, it has been regarded as making good subjects -- indifferent ones. By the constitutional act of the 31st of his present Excellent Majesty, erecting our present Provincial Assembly, the 21st article allows of any natural subject being elected a member of Assembly, except priests and teachers, either of the Church of England or Rome, or any other form of religious worship; and by the 42nd article when every/any act, has been passed by the Council and Assembly relating to any mode of religious worship, or to impose any religious disqualifications or disabilities, shall, previous to being assented to, be laid before the two Houses of Parliament. Exclusive of this positive law, by the tolerating act of Geo. II, any foreign Jew, can become a natural subject in any British Colony, and which act is introduced, in this Province, by the last clause of the Quebec Bill, or 14 Geo. III. Chap. 83; and again reintroduced and now in force, by the 33rd article of the present constitution. I will defy any man to bring forward any law to prevent a Jew from being eligible to any place in the Province that a Roman or Turk can aspire to. The conduct, therefore, of the majority of electors, is not to be arraigned on the present occasion in sending a person who is tied by interest to the prosperity of our agriculture and commerce, and I entertain too high an opinion of the candour of the members of the House, to think they will regard him less capable of serving his country, because he differs in religious ceremony." (May 11, 1807)

In mid-July, 1807 "A Subscriber" to the Mercury refers to the possible objection to Hart's taking his seat in the Assembly:

"Having seen a publication in a former paper of yours, respecting the eligibility of one of the Hebrew nation being permitted to a seat in our House of Assembly, I send you herewith the copy of the trial alluded to, which I accidently met with in the Glasgow Herald of Monday 1st December 1806; and which I would wish to insert, for the information of your readers, to shew that Jews, as well as other sects, are eligible to a seat in the British Parliament. (July 20, 1807) He referred to the case of Sir Manaseh Lopez of the Hebrew persuasion who was the Commons member for New Romney. This reader noted that he is referred to in the European Magazine of Dec. 1806, P. 490 as "well known to every man of intelligence as the Honorable Gentleman, a member of the House of Commons, for New Romney." He quoted a London report,

"'An Attorney, named Dance, was brought up for Judgement in the Court of King's Bench, he having libelled Sir Manaseh Lopez, Baronet, of the Hebrew persuasion, and was ordered to be imprisoned for twelve months, in New Gate, and to be struck off the Roll of Attornies.'"

The Mercury printed this lengthy report of the case before the Court of the King's Bench of Nov . 25, 1806, King vs. Dance.

Sir Manaseh Moses Lopez, Bart., was a member of the Commons, residing at Moristow House in the County of Devon, colonel of a corps of local volunteers. Attorney Dance had advanced money to a relation of Sir M. Lopez, from whom he could not procure payment, and Sir M. in order to discharge the debtor, had purchased certain securities of the defendant; on account of which and not being able to get the whole of his debt, he endeavoured, by abusing Sir M. Lady Lopez, and all his relations, to force him to procure the defendant a place, or to make up his supposed losses...

"Dance went to Devonshire and distributed a whole packet of libels in the neighbourhood of Sir M. Lopez and conveyed a large bundle of them to the captain of a corps of Volunteers, of which Sir M. was Colonel; in some of these the courage of Sir M. as a soldier was ridiculed, and all kinds of abuse were levelled at himself and family. The defendant now put in an Affidavit,

stating that he now regretted what he had done; that by his losses, alluded to in his letters he had been incapable of thinking rightly on any subject; that his mind was very much disordered; that he had a family of children. Sir Moses showed that since the time of his conviction the defendant had written other libels to Sir M. Lopez; and a letter was set forth which ended thus 'Your enemy till Death, G.M. Dance.'" (Glasgow Herald, Dec. 1, 1806) Mr. Dance was committed to Newgate for attempting to extort monies from him by libel and threats.

Sir Manaseh did indeed sit in the Commons for about a quarter of a century for one constituency or another, after being elected in 1802 for Romney. Cecil Roth notes that he was to be associated with the notorious scandal of the unreformed parliament.

He was, of course, converted to Christianity, and the case of Ezekiel Hart was not to be applicable to his, technically. But in the history of the full enfranchisement of the Jews the seating of converts did represent a stage in the process -- even though Jews did not thrill at seeing Meshumadim thus elevated.

Seeing these former Jews such as Bernal, Ricardo and Gideon in the Commons did accustom Christians to the concept of accepting their unbaptized cousins. Nor did the sight come very easily to the Christians. The nomination of a Villareal was ignominously rejected. (Cecil Roth. A History of the Jews in England. Oxford, Clarendon, 1941. Pp. 248-9, 288)

The phenomenon of former Jews in legislatures thus constituted a minor step in the achievement of equality for loyal Jews.

French-Canadian opposition was not assuaged by arguments from British law or usage. Then, as often since, they felt that not only Anglo-Saxons but others as well were preferred to them, and Le Canadien of December 12, 1807 carried a poem, "L'Anti-François":

"Pourquoi diable êtes-vous François,
Vous savez bien comme ou les aime,
Pourquoi diable êtes-vous François?
Me dit un jour un Ecossois,
Avec une franchise extrême.
Vous avez fort mal fait, l'ami,
De venir vous fixer ici
Où leur présence est importune,
Passe encore un Canadien;
Mais un François feroit très-bien
D'aller ailleurs chercher fortune.

Vous murmurez, vous pestez...Mais
Pourquoi diable êtes-vous François?
Je sais bien que fuyants Paris,
Decretés par la République,
Vos pareils furent acceuillis
Au sein de l''Ile Britannique;
Je sais bien que sa Majesté
Eut pour eux tout plein de bonté;
Enfin elle en étoit le maître;
Chacun a ses raisons; mais moi,
Si j'eusse à sa place été Roi,
Je les aurois envoyés paître,
Sans autre forme de Procès;
Pourquoi diable étoient-ils Francois?
On veut bien vous rendre justice.
Assez paisible citoyen,
On ne peut vous reprocher rien,
Qui soit à votre préjudice;
Et si vous étiez seulement
Suisse, Juif, ou même Allemand,
On pourroit vous rendre service;
Mais à François de nation
Témoigner la moindre tendresse!
Jamis un enfant d'Alboin
Ne doit avoir cette foiblesse:
C'est un peu dûr...j'en conviens...Mais
Pourquoi diable êtes-vous François?
Né chez un peuple d'ennemis,
N'esperez point ici de grâce,
Peut-être qu'en votre pays,
Vous eussiez rempli quelque place;
Mais ici c'est bien vainement,
Que vous auriez quelque talent,
De vous on ne s'occupe guères;
Et puisque, généreusement,
On vous souffre, soyez content,
Filez doux et sachez vous taire;
Allez, ne vous plaignez jamais,
Pourquoi diable êtes-vous François?"

As we review these all too scarce items from the early press it is good to recall a line of wisdom from Sulte: "We read them as historical curiosities. A newspaper article is not an article of faith."

F. Ouellet notes the anomaly of the constant victory of the governmental Bureaucrat Party in Trois-Rivières at a time when its electoral possibilities across the colony were very weak indeed. He notes that in that town this victory was due to the influence of the Bell and Hart families, supported by the clergy. (Le Bas Canada, 1791-1840, P.390)

Parenthetically, a phrase in a 1933 history of Ezekiel Hart is significant. Judge Fabre Surveyer and Francis-J. Audet discuss Les Députés des Trois-Rivières, 1792-1808. (Trois-Rivières, Les Editions du Bien public, Pp. 79-80) Referring to the Hart family at the time of the elections and to Aaron Hart's generosity to the Ursuline sisters, they note, "May it not displease the anti-Semites, this Aaron Hart was a very fine man." In 1933 this touch of humour was a courageous and timely gesture.

They refer to Ezekiel Hart as "without any doubt" one of the most interesting deputies from Trois-Rivières.

IN THE LEGISLATURE

A.J. Livinson put it,

"The theatre of his political adventure was in the Bishop's chapel and palace (part of it dating back to 1686), now the site of Montmorency Park, in the old walled city of Quebec, where the sittings of the Legislative Assembly of Lower Canada were held from 1792 to 1833. (Public Archives of Canada, Search Rreference No. 24,976) Hart would have fitted in well as one of the 'dramatis personae' in some Shakespearean scene."

On this stage the curtain rises Jan. 29, 1808. As Benjamin Sulte tells it in his Pages d'histoire du Canada (1891), the official bearing the file with the Trois-Rivières election results reached the Chamber of the Assembly --together with Hart -- on the last day of the session; Hart could not sit that year.

So that it is after this prologue that the Journals of Jan. 29, 1808 begin to record our epic. "Mr. Berthelot acquainted the House, that Ezekiel Hart, Esquire, returned to represent the Borough of Three Rivers, had taken the Oaths, and was waiting without the Bar to be admitted.

"A Member having asked, whether Mr. Hart took the Oaths in the customary manner?

"Mr. Berthelot added, that Mr. Hart took the Oaths on the Bible, his head being covered.

"Mr. Turgeon, informed the House, that he was present with Mr. Berthelot when Mr. Hart took the Oaths, and that he did take the said Oaths in the manner described by Mr. Berthelot.

"And then, on motion of Mr. Mure, seconded by Mr. Berthelot,

"The House adjourned till tomorrow at five o'clock in the afternoon." (Quebec Gazette, Feb. 4, 1808; Also in A.G. Doughty and Duncan A. McArthur, editors of Documents Relating

to the Constitutional History of Canada, 1791-1818, Ottawa, Public Archives, 1914. Sessional Papers, 1914, no. 29c; and Julius J. Price. "Proceedings Relating to the Expulsion of Ezekiel Hart from the House of Assembly of Lower Canada" in the Publications of the American Jewish Historical Society. no. 23, 1915, Pp. 43-53)

Similarly, the Quebec Mercury of Feb. 1 reported, "A Member then informed the House that Ezekiel Hart, Esquire, returned to serve as a Representative for Three Rivers, had taken the oaths. -- The gallery was immediately cleared and no readmission took place during the Evening. The House adjourned about five o'clock."

(Michel-Amable Berthelot d'Artigny was a member of the Assembly since February 1793 when he came to represent the county of Quebec. He filled that seat until May 1796. In March 1798 he was elected for Kent until June 1800 when he again was elected for the Quebec county which was his constituency until 1808.)

(John Mure, businessman, represented York in the Assembly from 1804 to 1810, when he was elected in the Lower Town of Quebec to sit until 1814. He served on the Executive Council from 1811 until his death in 1823. As we shall see, Mure was one of Hart's articulate defenders in the Assembly.)

(Louis Turgeon had been sitting in the Assembly since Aug. 6, 1804. He was to hold this seat until Oct. 2, 1809 and again from Apr. 25, 1816 to March 10, 1818 on which day he was elevated to the colony's Legislative Council where he served until his last day, on Sept. 26, 1827. As we shall see he played an important subsidiary role in the remarkable if premature 1809 effort to grant Jews full civic rights.)

Thus the question of Mr. Hart's eligibility to sit in the Assembly was raised, clearly with the intention of excluding him from the House. Many questions arise; among the first, how to be rid of an undesired man who had been duly elected?

There was another debate on the question in the Assembly at this time. The deputy in question happened to be Judge de Bonne, but their thoughts were doubtless on Hart as well, for the exclusion of both was on the agenda of the Assembly.

The Chamber at first attempted to achieve its purpose in the form of an act to exclude judges from the House, and a bill introduced into the Assembly passed. But the measure died for lack of approval from the Legislative Council.

There remained the possibility of exclusion from the Assembly by means of a simple resolution, which was also the English practice. There was long debate on this question which occupied the Assembly for several days. Le Canadien reports that "all the members, except for Mr. de Bonne, Denechaud and possibly some others, seemed to favour a bill if it had been proposed." On the motion of Bourdages on Apr. 22, 1809, following lengthy debates, the Assembly named a committee to inquire into any inconveniences that might be caused in cases of elections where judges had been nominated. (May 20, 1809, Pp. 111-12)

The eligibility of judges was not settled at this time, nor the proper manner for the exclusion of elected members.

We need to note the form of the question as it was brought up. It was the matter of the oath as taken by a Jew.

Oaths, the tradition of taking of oaths, the connection between these and religion, religious institutions and denominational theology have, of course, no intrinsic validity and are merely a convention. Indeed, current practice has discarded this convention by establishing the custom of affirmation which today assures the honesty of statement thus affirmed by sanction of law, and no links need be made with the religion of the person testifying. But even before the introduction of such affirmation, witnesses who have sworn on Bibles have seldom been questioned as to the nature and the depth of religiosity, or the details of their understanding of the nature of oaths.

Instead, oaths have become a code word for their formal affiliation with their respective religious denominations, and hence instruments for differentiation and discrimination. Jews have long known the taste of this "civilized" convention. Since the days of Luther, Christian denominations, too, have smelled the odor of sanctity rising from such persecution all too often related to the convention of the oath; Catholics no less often than Protestants.

In the history of western freedom the tradition of oath-taking has arbitrarily come to be used as an instrument of discrimination and has been the occasion of the spilling of much blood in religious persecutions and wars. Jews and Catholics in particular were suffering greatly from this instrument of injustice in which the mode of a citizen's assertion of sincerity and conscience became the instrument of injustice and worse.

Any sensitive Catholic residing under the English flag, particularly a Lower Canadian, should have abhorred this ominous argument.

There was a more bitter irony in the Catholic French Canadian group utilizing the weapon of the oath against a minority which could not in religious conscience and in civic honesty take an oath in the form prescribed by civic authority, in this case a Protestant authority.

The entire oath issue need not have been raised, and it may be said that it was brought up for reasons of political expediency. The stand could have been adopted that the manner of a Jew taking the oath, that is with his head covered, on the Pentateuch, was according to Common Law, the manner which was binding on the conscience of the one taking the oath. This was true in England generally in regard to Jews taking oaths and was the practice in the courts of Canada from the earliest times. It could similarly have been taken that no Canadian Assembly could take away rights from Jews on account of religion without the consent of the British parliament.

The fundamental law concerning the Jew seemed to be established in 1792 in both Upper and Lower Canada and generally discussed and confirmed many times in the course of later years.

The arbitrary nature of the "oath problem" is proven in the manner in which society has resolved it. In the course of time, affirmation has come to displace the religiously sanctioned oath; the religious formulary was dispensed with; the problem dissipated with no visible loss to society -- and great gain.

In point of British North American fact, a Halifax Jew had been elected to the Nova Scotia Assembly, and we have no intimation that the oath question was raised, let alone how it was answered.

At the very moment when conforming and observant Catholics in Quebec were applying it to a Jew elected by Christian votes, largely Catholic, Roman Catholics living in the metropolis of Great Britain were deprived of their rights and status by a similar oath instrument. In the heat of the political polemic the victims of persecution were unaware that they were themselves persecuting others with the same instruments.

Furthermore, by seeking to extend it to Lower Canada and to apply it in their own legislature they were ratifying and strengthening the principle under which Catholics were limited in England. The same principle might be invoked against them in their own Lower Canada.

But the parliamentary group that was contesting the English-dominated party in the interest of political power for their French-Canadian majority had immediate reason for keeping Hart from the Assembly, and did not hesitate to invoke the oath aspect for this end.

This may have been the first of several situations in Quebec history where the spokesmen for the group interests of the French Canadians found themselves in opposition to the Jewish group and to Jewish spokesmen. Then, too, there was much that was accidental in the conflict. It did not need to be.

This clash of the spokesmen was contradicted by the attitude of people.

It was French Canadian people in Three Rivers -- the heart of Lower Canada -- who elected Hart, rejoiced at his victory, and in a score of ways during a century, showed friendship and esteem to the family. By the same token, some members of the family and others of the few Jews in the colony openly sided with French Canadians to the point of defending them in their rebellion.

Through the score of decades the alignment has been not French Canadian vs. Jews, but some extremist anti-Semitic and xenophobic nationalists, who saw an enemy in the Jew, vs. other Canadiens, equally patriotic and nationalistic, whose daily life and political action brought them into contact with Jews and who found nothing in the Jews to arouse hostility.

This colony, largely Catholic, was the first of the British American possessions, now Canada, to raise the oath question. In the heat of political conflict and possibly anti-Semitic rage they were acting vigorously against their own interests, though we know of no disabilities to trouble Quebec Jews outside the Assembly. They seem not to have been hampered in their properties or in their progress in law, the professions, the military. Some historians believe that it was after 1812, when government had greater occasion to call upon the services of Jewish citizens, that the oath question came to be less stringently applied.

When Aaron Ezekiel Hart had occasion to take the oaths of allegiance, supremacy and abjuration in 1824, or to become a lawyer in Quebec that year, he found no challenge or trouble, nor when he became ensign in the Quebec militia in 1826, and captain two years later. (He testified in 1836 before the Assembly Standing Committee on Grievances in the Case of Judge Bowen.)

The controversies after 1792 revolved around two points, firstly, the question of oaths preventing the holding of office as member of parliament or as justice of the peace in the cases of Samuel Becancour Hart, Benjamin Hart and Moses Hayes from 1830 on; and, secondly, the general right to hold office and sit in Parliament as when Ezekiel Hart was refused the right to take his seat in the Parliament of Lower Canada during the years 1807 to 1809.

Later, in 1832-34 the problem was erased by the declaratory law granting Jews all the rights of citizenship.

When no extraneous issues intruded, it can be argued, the oath problem did not exist for it was not raised.

Farley-Lamarche notes (in his Histoire. 1962, P.341) "The oath question was only a pretext, as was that of the eligibility of judges which was raised to exclude De Bonne." He writes that in 1768 John Franks created an important precedent in modifying the wording of the oath from "on the true faith of a Christian" to "on the true faith of a Jew."

The problem of the rights of Jews and of aliens in the colony was also raised in the neighbouring province of Upper Canada, but never with the Quebec sharpness of 1808. Rabbi Arthur Brodie notes that a Select Committee of the Legislative Council analysed the legal situation, and specifically noted that Jews and Quakers were exempted from the sacrament which other Protestants required. Attempts were made to deprive naturalized aliens from the rights of office, but these were not successful. It had been stated in Upper Canada that a Jew could not hold land, but there was not much ground for this view. A Jew did sit on the jury in Detroit, then in Upper Canada, and in 1833 the Oath Act did away with that problem. In 1851 the parliament of the United Provinces declared once and for all the equality of all religious groups.

The issue was raised in the colony of Vancouver Island before its admission into Confederation. (D. Rome, The First Two Years, A Record of the Jewish Pioneers on Canada's Pacific Coast, 1858-60, Montreal, H.M. Caiserman, 1942), but Selim Franklin retained his seat.

Joseph Tassé, in his survey of "Droits politiques des Juifs au Canada" sixty years later, noted that "swearing on the Bible, head covered, is the usual form of taking an oath among Jews. They swear on the Pentateuch, just as the Mohammedans swear on the Koran and as other peoples follow their particular custom.

"But the French members claimed that this oath cannot be recognized by the constitution, and that a member whose religious principles prevent him from taking the oath on the Sacred Evangel and to swear 'on the true faith of a Christian' cannot take the oath required by the law and is ineligible for parliament." (Revue canadienne, vol. 7, 1870, P.410)

Hart's persecutors might have been enlightened to learn that, in accordance with his religious tradition, the head was to be covered at all times; not only during the moment of taking an oath. The covered head had no particular relationship with the oath. It was more closely related to the priest having his head covered at certain times.

As Louis Phillipe Geoffrion points out in his Reglement Annoté de l'Assemblée législative de Québec, Québec, 1915. P.13, William R. Anson has made it clear that "It should be noted that failure to take the oath prevents a member of the House of Commons from sitting and voting as a member of the House; but that he is not the less a member as regards his constituency, and that he is for some purposes a member of the House of Commons. His seat is not vacant, and he is capable of discharging all the duties and enjoying all the rights of a member, short of sitting within the bar of the House, taking part in its debates, and voting in its divisions." (The Law and Custom of the Constitution. 5th ed. Oxford, Clarendon, 1922, vol. 1, P.66.)

A point may be made about the opposition to Hart's taking the oath. We tend to think of a polarization of position along political lines of principle, with the Jews and those who supported them insisting on expanded rights, considering the wording and form of the oaths as hurdles to be overcome, on the one hand; and on the other, their opponents who wished to debar Jews from certain positions, utilizing the forms of oath as an instrument to this end.

Probably this was not always the line of division. Hence Hart's legal arguments as set forth in his petition -- as well as in the petition "of sundry Jews" later -- was not met head on. The same society was sometimes prepared to overlook the matter of the oath when the candidate for office did not arouse personal or other opposition. As an example we may cite this very case of Hart: The commissioner who administered the oath to Hart did so in good conscience, and we have no record of reprimand. He exercised his discretion, and was not challenged on the fact.

It was within the realms of possibility that they might have overlooked the matter of the oath.

Tassé, too, thinks that what happened was not inevitable upon the election of a Jew: The question is raised,

"It was only the prelude to bitter disappointments which eventually were to force him to bid farewell to political life. For Mr. Hart was naturally associated with the English party which, strengthened by the support of authority, wanted to conduct everything in its own manner and to have an absolute control on legislation. The Deputies of our origin, as is well known, fought them valiantly. Under the direction of distinguished and capable leaders they proved unwilling to cede an inch of ground. It is not surprising that, in the midst of the excitement of battle, they obeyed their passions and chose every occasion to humiliate their adversaries by expelling one of them. By doing so they were performing an act of reprisal and at the same time forced the disappearance from the political scene of a man whose vote would always go against them. In other circumstances it is not probable that the French members would have insisted on seeking to eliminate Hart just because he was a Jew any more than they would have sought to expel judges De Bonne and Foucher if they had remained faithful to the national party." (Pp. 409-10)

It is interesting to note how contemporary or early observers of the Lower Canada scene noted the Hart case.

We shall read later the comments of English traveller John Lambert as he published them in London and Dublin first in 1810.

Robert Christie was himself a victim of the legislature's expulsion procedures. In A History of the Late Province of Lower Canada, Parliamentary and Political, from the Commencement to the Close of its Existence as a Separate Province (Quebec, Cary, 1848, vol. 1, Pp. 255-56) he recalled that the member of the Assembly for the town of Three Rivers "dying in the course of this session, a writ had issued for the election of a member to succeed him, and Mr. Ezekiel Hart, a merchant and old and respectable inhabitant of the town, was duly returned, but the return not being made until the last day of the session, he did not appear to take his seat before the beginning of the next session. Mr. Hart was a Jew, highly esteemed by his neighbours and his fellow-townsmen, as a man of reproachless life and upright character; but the good Christians of the Assembly, nevertheless, took exception at his religion....

Robert Christies, a contemporary of the events and a participant in this political life, describes these parliamentary manoeuvres (vol. 1, P.271),

"The return of Mr. Hart for the town of Three Rivers was also taken up, and less tolerant with respect to that gentleman than towards the judges, probably because less to be feared, his seat was vacated; it being resolved (21 to 5) 'that Ezekiel Hart, Esquire, professing the Jewish religion, cannot take a seat nor sit nor vote in this house.' Mr. Hart's constituency, with becoming spirit, reelected him.

"Another question somewhat similar to this was agitated during the present Session. A Jew of reputable character having been elected and returned for the Town of Three Rivers, it was contended that his religious persuasion created an inability to sit and vote as a member of the House of Assembly. The leading members exerted themselves in support of the competence of the House to exclude him by resolution, or at least of the undeniable right of the Legislature to supply, by enactment, such provisions in matters affecting their privileges as might have been improvidently omitted in the constitutional Act. After some animated debate rather relating to the mode of expelling or disqualifying the Member for Three Rivers, than to the propriety of the measure, the party for expelling him by resolution prevailed, and it was resolved 'that being of the Jewish persuasion he could not take a seat, nor sit, nor vote in the House of Assembly.'

"...Unhappily for the tranquility of this administration a party spirit had gained ground, and was irritated by the odious and reiterated reflections of an eminent journalist in the metropolis of the colony, upon the manners and customs of the Canadian population, as well as upon their religious and political opinions. His sentiments in the minds of those who were, or rather, who conceived themselves essentially injured by them, were considered as of a party Anti-Canadien, nay, even of the Government itself. A few individuals indignant at the affront, incurred the expense of procuring a press, with a view of counteracting the influence which the labours of the Editor might produce, to the political detriment of the Province. From this Press a weekly paper called Le Canadien issued in the French language, which soon acquired popularity with the denomination of an opposition paper. A newspaper strife far from harmonizing parties, by reciprocally enquiring into the causes of their misunderstanding, inflamed the growing evil, and the odious sense applied to the terms Canadien and Anti-Canadien,

Choyen and Democrat, distinctive of parties, gave uneasiness to all who earnestly cultivated a good understanding with their fellow citizens. From the novel and hardy spirit of this publication, many who were connected with the administration of the Colonial Government, or dependent upon it, affected to suspect a conspiracy on foot, and that secret funds were furnished from abroad for the purpose of alienating the minds of the people from their allegiance, and to revolutionize the Province. Some ancient and respectable citizens known to have contributed towards the purchase of the press, were dismissed from their rank in the sedentary militia; among them Mr. Panet, the Speaker of the House of Assembly, a gentleman of the most unimpeachable integrity. This measure although of little importance in itself, created from its harshness, an interest in the public, which strengthened the party already formed in opposition to the measures of the administration."

As we shall see, Hart's actions in relation to Panet were to be a serious element in the history of his case.

In the perspective of Canadian economic history, the Ezekiel Hart episode is ever puzzling. In his study of early Canadian commerce and politics, originally issued as The Commercial Empire of the St. Lawrence, 1760-1850, Donald Creighton wrote,

"It was in the session of 1809, after Craig had been more than a year in the colony, that the French-Canadian majority decided to expel from the bosom of the assembly two members who were either known or suspected to be friendly to the impotent commercial group. Both men were vulnerable, for one, Ezekiel Hart, was a Jew and the other P.A. De Bonne, was a provincial judge. It was a rather odd prelude to their long advocacy of the rights of religious minorities when French Canadians solemnly decided that Ezekiel Hart, being a Jew, could not sit or vote in the provincial parliament. As for Judge De Bonne, they came to the natural conclusion that judges were ineligible for election to the assembly. It was after they had spent some weeks in earnest discussion of these national affairs that Governor Craig, breathing the wrath of a disciplinarian, and the moral indignation of a patriot, descended suddenly upon them to castigate the assemblymen and dissolve the assembly. (The Empire of the St. Lawrence. Toronto, Macmillan, 1956, P.162)

February 1, 1808:

On February 1, we read in the Journals,

"The House was moved, that the entry of the twenty-ninth of January last, respecting the application of Ezekiel Hart, Esquire, to be admitted to take his seat as a Member of this House for the Borough of Three Rivers, be now read.

"And the said entry being read accordingly.

"Mr. Berthelot acquainted the House that, in the information given by him on the twenty-ninth day of January last,he said that Ezekiel Hart, Esquire, had taken the Oath and not the Oaths.

"Upon motion of Mr. Attorney-General, seconded by Mr. Justice De Bonne,

"Resolved, That it is the opinion of this House, that Ezekiel Hart, Esquire, returned to represent the Borough of Three Rivers, hath not taken the Oath in the customary manner.

"Ordered, That the Clerk Assistant of this House do furnish the said Ezekiel Hart, Esquire, with a Copy of the next preceding resolution, to the end that he may thereupon pursue such further course in the premises as the law of Parliament may be found to require.

"Then, on motion of Mr. Berthelot, seconded by Mr. Duchesnay,

"The House adjourned."

Indeed, a copy of this resolution was sent to Hart.

The Quebec Gazette report is slightly more complete:

"The Gallery being cleared, we understand that the House proceeded to take further consideration of the information given relative to Ezekiel Hart...After debate, the doors being opened, the House passed a resolution..." (Feb. 4, 1808)

We might note the important position of the attorney-general. At the time it was no lesser a person than Jonathan Sewell (1766-1839), one of the outstanding men in the colony, who was to be elevated chief justice the same year of 1808. He had been named to the post in 1793 and served for two years, until his election to the Assembly for William Henry in 1796. He represented this district until his elevation to the high bench. At the same time he was named to the Legislative Council (1808-1838) and served as its Speaker through all these years. He also served as president of the Executive Council from 1808 to 1829 and as member to 1830 and again in 1838, until his death on Nov. 12, 1839.

The motion against Hart was directed to the specific matter of the oath, and not about his right to his seat; for we shall read later that, as chairman of an Executive Council Committee, Sewell upheld the right of a Jew to this office. But at this point we do not hear of him affirming this right.

Mr. Justice De Bonne should have been the last man in the Assembly to question Hart's right to sit, or to admit the Assembly's right to judge on the eligibility of elected representatives. Very soon he was to become the victim of the same proceedings.

He had begun his political career as an active member of the anti-English caucus in the very first assembly in 1792. But four years later he had suceeded to the bench and to the executive council, and the same year he supported an Englishman as Speaker in the place of J.-A Panet. By 1807 he opposed indemnities for members, which would have made it more practical for elected representatives to attend sessions without prejudice to their private economic vocations. He became the central target of the Canadian party, as a renegade from their own blood and seed. It took the form of a long campaign to legislate the inability of judges for the Assembly. All this time, since Dec.29, 1794, he was serving on the colonial executive council, indeed, until the day of his death on Sept. 6, 1816.

In the crunch, a year after this debate of Feb. 1808, De Bonne may have been on Hart's side, but why did he speak so in 1808?

Certainly, his role in this story left open questions which were raised much later and never fully answered. As we shall see later, when the case came to contribute to the dissolution of the Assembly, Le Canadien recalled that at this time Judge De Bonne stated that, as a Catholic, it was not necessary to enter into any long reasonings on the question. Since Catholics are excluded from the British parliament, it would be preferring Judaism above Catholicism to admit them -- something Catholics should not do. (June 10, 1809) The editors threw his words into his face when he came to vote differently.

PETITIONS

On February 9, 1808,

"A petition of Thomas Coffin, Esquire, of the Town of Three-Rivers, was presented to the House, by Mr. Frobisher, and the same was received and read,

"'Setting forth:- That at the last Election in the aforesaid Town for a Member to serve in the present Provincial Parliament, in the place of the late Honorable John Lees, the petitioner was a Candidate, together with Mathew Bell and Ezekiel Hart, Esquires; that a Poll was opened at the request of the Candidates, and that at the close thereof, there appeared for Ezekiel Hart, 59 votes; Thomas Coffin, 41; Mathew Bell, 16.

"'That Charles Thomas, Esquire, Returning-Officer, did return the said Ezekiel Hart, as duly elected. That the petitioner begs leave to represent, that the said Ezekiel Hart, is of the Jewish Religion, and is therefore not capable of being elected to serve in the House of Assembly, or of taking the oaths required, or sitting or voting in the Assembly, and that the votes given for him at the aforesaid election ought to be considered as null and void, and the petitioner prays, that the House may be pleased to declare, that the said Ezekiel Hart, is not capable of being elected, or of taking the oaths required, or of sitting or voting in the House of Assembly; and that the petitioner having a majority of legal votes, may take his seat in the Assembly as Representative of Three Rivers. And further, that the Clerk of the Crown in Chancery, be ordered to attend at the Bar of the Assembly, to amend the Return for the Town of Three-Rivers, by erasing the name of the said Ezekiel Hart, and inserting that of the petitioner in lieu thereof.'" (also in Quebec Gazette of Feb. 11 and in Le Canadien of Feb. 13, P.47)

(Benjamin Frobisher sat in the Assembly Aug. 6, 1804 to April 27, 1808 for the Montreal County.)

At this point we note that it is by Anglophones that Hart is being opposed.

February 12, 1808:

But Ezekiel Hart also petitioned the Assembly, on February 12.

"A petition of Ezekiel Hart, Esquire, returned to represent the Borough of Three-Rivers, was read by Mr. Mure, in his place.

"Mr. Mure moved, seconded by Mr. Berthelot that the said petition be now brought up.

"The House was then moved, that the information given to this House, on the twenty-ninth day of January last, touching the manner in which Mr. Hart had taken the Oaths; with the resolution and order of the House on the said information, the first of February instant; as also the petition presented to this House, the ninth instant, from Thomas Coffin, Esquire, against the return of the said Ezekiel Hart, be now read.

"The said information, resolution, order and petition, were read accordingly.

"The question was now put, viz:

"That the petition of Ezekiel Hart, Esquire, be brought up?

"The House divided, and the names being called for, they were taken down as follows:

"Yeas - Messieurs De Salaberry, Fortin, Feréol Roi, Proulx, Lussier, Carron, Roi Portelance, R. Cuthbert, Justice Foucher, Bourdages, Bédard, Alexander Roy, Le Gendre, Turgeon, Berthelot, Mure, Munro, The Attorney-General, Richardson, Planté, Perrault, Mondelet, Pyke and Cartier.

"Nays - Messieurs Taschereau, Blackwood, Duchesnay, J. Cuthbert, Justice De Bonne, Vigé, Weilbrenner, Raimond, and Martineau.

"And there being a majority for the affirmative.

"Ordered. That the said petition be brought up.

"The said petition was, accordingly brought up and read.

"Setting forth:- That to his deep regret, a resolve of this House has been communicated to him, expressive of the petitioner's not having taken the Oath in the customary manner.

"That on the 29th day of January last, he duly did take the Oath as prescribed by Statute 31st of his present Majesty, chapter 31st, Section 29th, to qualify the petitioner to a seat in this House.

"That the said Oath was administered to the petitioner in a conscientious and lawful manner as directed by His Majesty's Commissioners, and that the petitioner regards the said Oath on his part legal, binding and sacred to every purpose whatsoever.

"That however sensible he is, that he has taken the Oath according to the true meaning of the Constitutional law of this Province, yet he will not object to have the same re-administered to him in the usual form.

"The petitioner therefore humbly solicits, that the House will be pleased to admit the petitioner to take his seat accordingly." (also in Quebec Gazette, Feb. 18 and in Le Canadien, P.50)

The division on the question is very remarkable in the light of later events for one reason alone.

Apparently out of a sense of fairness an overwhelming majority of the men of the Assembly voted to take up Hart's plea, even some of the militantly hostile to his cause. That Judge de Bonne was not among them is not surprising in the light of what emerges about his character throughout our story and throughout his political biography.

But it is surprising to find Blackwood in his company, for we shall later see him as an almost prophetic figure in seeking the advancement of the Jewish cause!

We need to note for any future reference the name of Louis Bourdages (who sat for Richelieu from Aug. 4, 1804 to March 22, 1814; for Buckingham from March 13, 1815 to Feb. 29, 1816 and for Nicolet from Oct. 26, 1830 to the last day of his life, Jan. 20, 1835) among those who voted in support of Hart. There is nothing else in the official record to draw attention to his role in the Hart case except that, as we shall note, Jacques Viger in a private letter labels him as the key man in a conspiracy against the Trifluvien Jew.

It will be noticed, at first without surprise, that we do not find the name of Hart among the voters. It is not even sure that he was in the Chamber.

But we shall read later in this chronicle that Hart did vote, and fatefully, on the choice of the Speaker, even while his right to sit was equally in question.

But on another level the absence of his vote is to be noticed.

If Hart felt that his expression by voting on a question that concerned his person would be indelicate -- not to invoke the question of conflict of interest -- such scruples did not trouble his colleague Judge De Bonne. During these weeks, when his right to sit was challenged just as was Hart's, the judge not only voted in these divisions, and voted in his own favour, but participated in the parliamentary manoeuvres which led to the question being dragged literally interminably, i.e., without being brought to term.

Indeed, three days later, on Feb. 15, 1808, Mr. Bourdages moved for permission to introduce a bill to disable judges from sitting in the Assembly. It was De Bonne, seconded by the other judge, Foucher, who moved an amendment proposing instead that the Assembly next week sit in committee of the whole to consider the expediency of such a bill. Bourdages and his seconder opposed the amendment, but it passed with both De Bonne and Foucher voting for their amendment.

When the bill on the eligibility of judges came up again on the 27th. for second reading De Bonne moved for delay by referral to the committee of the whole. He was seconded by the attorney-general. On a vote the members divided equally as De Bonne voted with the other members and the speaker decided in De Bonne's favour both on the amendment and the motion.

When the question came up again on March 2, 1808 in the form of a bill to be discussed, it was proposed, by a committee of the entire house, it was De Bonne who moved that the order of the day be simply discharged. He found a seconder in Judge Foucher, but not enough supporters to pass his motion.

They voted against the bill on March 4, 1808.

Mr. Hart's position was supported by "Z", the signatory of a letter to the editor of the Quebec Mercury of Feb. 15, 1808:

"Much matter having been recently agitated, respecting the mode in which the oath was administered to Mr. E. Hart, to qualify him to take his seat, to represent the town of Three Rivers, it has induced me to peruse the act of Parliament, which gave rise to the Assembly of Lower Canada. It is clearly demonstrated, that persons of his religious tenets are not proscribed, by that act, from the Assembly; in taking the oath inserted in the act, it does not dictate on what book it is to be taken; but as that subject is the prerogative of the Crown, to appoint commissioners whose duty it is to adminster the oath, in a conscientious and binding form, if they should be satisfied therewith, I should reasonably infer, the Assembly ought not to murmur. I will proceed a few steps further. The legislature of Lower Canada, although it includes an hereditary nobility, is not stiled parliament of Lower Canada in that act; neither does any clause of that act, convey to them the rights, privileges, and customs of parliament; but on the contrary, parliament can control many material acts, and can, if she pleases, annul their legislative capacity. From hence, I should reasonably presume, that the Legislature cannot assume the title of parliament, nor any other right, custom or privilege, than what is granted to them by the said act of parliament, or which it can obtain, from its own acts.

"But if such was not the case, and that act did confer all the privileges and customs of parliament, surely parliamentary oath customs could not operate, else the catholick would grumble, as it would be unjust to allow a part to operate against one sect and not against the other. Had the person in question been allowed to swear on the Evangelists, instead of the Testament, probably he would not have regarded the oath as binding, and I should have then considered the commissioners as reprehensible. I entertain too high an opinion of the gentlemen composing the Assembly, to suppose they will suffer themselves to be drawn into any illiberal conclusions, or that they will brand any sect with religious intolerance or incapacity. Z."

The editor of the Mercury draws attention to a quandary facing Jews at that time and facing them at present (but not one that had been troubling them for many centuries so acutely), and an inconsistency in their neighbours:

"The Jews have been charged with the unsocial principle of separating themselves; and certain Christians with too much zeal in inforcing the text 'compel them to come in.' Quere, whether in some late proceedings there has not been something of a change of character?" (same issue)

We hear nothing more of the Col. Coffin petition. As Sulte put it, he preferred to run again in the nearby St.-Maurice constituency where he was elected and sat for a year, June 18, 1808 -- Oct. 2, 1809. He returned and won the Trois-Rivières seat on Apr. 21, 1810 and sat until March 22, 1814. He was named to the Legislative Council on May 8, 1817 and sat until March 27, 1838. He died three years later, on July 19, 1841.

February 13, 1808:

At this time, on Saturday, Feb. 13, 1808 a remarkable incident took place in the Assembly which had no particular political consequence but which did trouble the decorum of the House for several days.

The House learned three days later, on Feb. 16, from Justice De Bonne that on the preceding Saturday one of the members while sitting in the House "was called into the Ward Robe adjoining to this House, and that he was there served with a Writ of Summons, to appear in one of His Majesty's Courts of King's Bench, for the District of Quebec. Mr. Justice De Bonne, therefore requested, that the Honorable Mr. Justice Foucher, who is the Member in question, will inform the House whether his information is correct or not.

"The Honorable, Mr. Justice Foucher being thereunto required, acquainted the House, that on Saturday last, at five o'clock in the afternoon, being then in his place, in the House, and taking part in the debates, he was called by the Messenger Welling, who told him some one wanted him in the Ward Robe: that he went out immediately, and that outside the door of the House, the Messenger Welling, pointed at a man standing near the desk in the Wardrobe, whom he (Mr. Foucher,) did not know. That the man so pointed at, came within two paces of him, and put into his hands, two papers, telling him he had orders to serve them upon him, and that they were two Summons at the Suit of Mr. Ezekiel Hart; Mr. Justice Foucher added, that the said Summons required his appearance before the Court of King's Bench of this District, on Thursday the eighteenth instant, to answer to their contents.

"On motion of Mr. Justice De Bonne, seconded by Mr. Berthelot,

"Ordered, that Augustus Welling, one of the Messengers of this House, do appear at the Bar of this House, to inform the Members thereof, what person it was, that on Saturday last desired him to call Mr. Justice Foucher into the Ward Robe, and for what purpose.

"Augustus Welling, Messenger to this House, appeared at the Bar accordingly, and being questioned by Mr. Speaker,

"He acquainted the House, that a man of the name of Johnston, desired him, on Saturday last, to call Mr. Justice Foucher out of the House: that he has seen the said Johnston receive Warrants from Masters of vessels, and convey sailors on board of ships, but cannot say whether he, Johnston, is a Bailiff or Constable; that he saw Johnston speak to Mr. Justice Foucher in the Ward Robe, but did not hear what passed between them.

"He then retired,

"On motion of Mr. Justice De Bonne, seconded by Mr. Berthelot,

"Ordered, That Mr. P.E. Debarats, French Translator to this House, do appear at the Bar of this House, to acquaint the Members thereof, who is the said Johnston, and give such other information that he may possess, touching the present enquiry.

"Mr. P.E. Debarats, French Translator to this House, appeared at the Bar accordingly.

"And being questioned by Mr. Speaker,

"He acquainted the House, that he knows Johnston to be one of the Bailiff's of the Court of King's Bench, having had occasion to employ him in that capacity, that he saw the said Johnston speak to Welling the Messenger, in the Ward Robe, on Saturday last, and that Welling went into the House, and returned with Mr. Justice Foucher, into the Ward Robe, to whom Johnston spoke.

"He then retired.

"The Honoarable Mr. Justice De Bonne, in his place acquainted the House, that John Johnston, is one of the Bailiffs of the Court of King's Bench, for the District of Quebec, and that there is no other Bailiff of the same name.

"On motion of Mr. Justice De Bonne, seconded by Mr. Mondelet,

"Resolved, That a Committee of seven Members, be appointed to search for precedents and report whether the Summons given by John Johnston, one of the Bailiffs of the Court of King's Bench, to a Member of this House, in the Ward Robe, during the sitting of the House, is a breach of the privileges of the Members of this House.

"Ordered, That Mr. Justice De Bonne, Mr. De Salaberry, Mr. Bedard, Mr. Richardson, Mr. R. Cuthbert, Mr. Mure and Mr. Turgeon, do compose the said Committee."

The matter was brought up again on Feb. 29 when, Mr. De Salaberry, from the Committee appointed to search for precedents and to report whether the summons given by Johnston, one of the Bailiffs of the Court of King's Bench, to a Member of this House in the Ward Robe during the sitting of the House, is a breach of the privileges of the Members of this House, reported, that in pursuance to the order of reference, the Committee had proceeded to search for precedents, and had framed a report thereon, which he was directed to submit to the House whenever it shall be pleased to receive the same.

"And he read the report in his place, and afterwards delivered it at the Clerk's Table, where it was again read, and is as follows: vizt:

"Your Committee in pursuance of your reference to them, upon subject of a breach of privilege, regarding the summons of Mr. Justice Foucher, a Member for the Borough of Three-Rivers, which was served upon him in the Ward Robe, or Anti-chamber, being an appendage of the House, proceeded to read and consider the following Acts of the Parliament of Great-Britain, for restraining the privilege of Parliament, vizt:

"12th and 13th, of William 3d, chap. 3d.
4th, Geo: 3d, -- 33.
10th, Geo: 3d, -- 50.

"Whereby it appears, that, previous to the passing of those Acts no Member could be proceeded against, either by arrest or otherwise for any debt due by him.

"That since those restraining Acts, it has been lawful to institute suits against Members of Parliament for debts, by summons in lieu of arrest or mesne process as is the case in respect to unprivileged persons.

"Your Committee further proceeded at different times, to make diligent search in the Journals of the Commons of Great-Britain for precedents, but being unable to find anything directly applicable to this particular case, are reduced to the necessity of reporting their opinion upon the whole circumstances, as to what would probably have been the decision of the Commons of Great-Britain, if the fact had happened there.

"The Act of William the 3d, before cited, which allows of the issuing of Summons against a Member of Parliament, establishes that the same be served, by leaving a copy thereof with the defendant, or at the house or lodgings or last place of abode.

"Now it cannot be supposed that the Commons, hitherto so jealous of their privileges, could in cases of relaxation therefrom, ever intend to carry the same beyond the bounds of strict necessity, and consequently could not sanction the service of a Summons by leaving a copy of same with the defendant, either in the Commons House of Parliament, or in any of the appendages or appointments thereto appertaining, because such a procedure so far from being necessary to the Plaintiff's relief, would have bone to authorise the means of over awing a Member when in actual attendance upon his Parliamentary duty, and could not operate otherwise than an insult to the House, and restraint upon the freedom of its proceedings.

"In this view of the case referred to your Committe, they cannot but consider the sending for Mr. Justice Foucher, a Member of the House, when attending in his place in the Assembly, and on his coming out into the Ward Robe (being one of the apartments thereof) serving on him a Summons, as an Insult to the House, and a breach of its privileges.

"On motion of Mr. De Salaberry, seconded by Mr. Cartier,

"Ordered, That the said report be taken into consideration to-morrow."

Indeed, on the morrow, but not urgently, indeed not until March 2, 1808,

"The order of the day for taking into consideration the report of the Special Committee, appointed to search for precedents, and report whether the summons given by John Johnston, one of the Bailiffs of the Court of King's Bench, to a Member of this House in the Ward Robe, during the sitting of the House, is a breach of the privileges of this House, being read --

"On motion of Mr. Mondelet, seconded by Mr. Blackwood,

"Ordered, That the said order of the day be postponed.

"Resolved, That this House will, on Friday next, take the said report into consideration.

"And then, on motion of Mr. Mondelet, seconded by Mr. Blackwood,

"The House adjourned till Friday next."

In due course, "the order of the day for taking into consideration, the report of the Special Committee appointed to search for precedents, and report whether the summons given by John Johnston, one of the Bailiffs of the Court of King's Bench, to a Member of this House, in the Ward Robe, during the sitting of the House, is a breach of the privileges of the Members of this House; being read --

"On motion of Mr. Mondelet, seconded by Mr. Mure,

"Ordered, That the said order of the day be postponed." (Journals, P.240)

Several days later, "The order of the day for taking into consideration, the report of the Special Committee appointed to search for precedents, and report on whether the Summons given by John Johnston, one of the Bailiffs of the Court of King's Bench, to a Member of this House, in the Ward Robe, during the sitting of the House, is a breach of the privileges of the Members of this House, being read --

"On motion of Mr. Mure, seconded by Mr. Dumont,

"Ordered, That the said order of the day be postponed.

"Resolved, That this House will, on Tuesday next, take the said report into consideration." (Journals, P.252)

But on March 8, 1808,

"The order of the day for taking into consideration, the report of the Special Committee appointed on the 16th February last to search for precedents, and report, whether the Summons given by John Johnston, one of the Bailiffs of the Court of King's Bench, to a Member of this House, in the Ward Robe during the sitting of the House, is a Breach of the privileges of the Members of this House, being read --

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

"And the said report was read throughout by the Deputy Clerk.

"Mr. De Salaberry moved to resolve, seconded by Mr. Mure,

"That to send for a Member of this House, when in his place, attendant on the duties thereof, and on his withdrawing in consequence to an apartment thereof, or appendage thereto appertaining, to serve upon him, a Summons or other civil process, is a breach of the privileges of this House.

"The House, being moved that the information given by Mr. Justice De Bonne, and the succeeding entries related thereto, on the 16th February last, be now read.

"The said information and entries were read accordingly.

"Mr. Attorney-General moved, seconded by Mr. Taschereau, the previous question on Mr. De Salaberry's motion, vizt:

"Shall the question be now put?

"The House divided, Yeas 19; Nays 3

"And the question being put upon the main motion.

"The House again divided, and there being a majority of sixteen for the affirmative.

"Resolved, That to send for a Member of this House, when in his place, attendant on the duties thereof, and on his withdrawing in consequence into an apartment thereof, or appendage thereto appertaining, to serve upon him, a Summons or other civil process, is a breach of the privileges of this House.

"Mr. Richardson moved to resolve, seconded by Mr. Mure,

"That John Johnston, a Bailiff of the Court of King's Bench, in sending for Mr. Justice Foucher, a Member of this House, when attendant on his duty therein, and on his withdrawing in consequence into the Wardrobe or Antichamber thereof, having served upon him, a Summons, is guilty of a contempt and breach of the privileges of this House,

"Whereupon, Mr. Attorney-General, seconded by Mr. Blackwood, moved the previous question, videlicit:

"Shall the question be now put?

"The House divided: Yeas 19; Nays 3

"The question was, accordingly put upon the main motion, the House again divided, and there being a majority of sixteen for the affirmative,

"Resolved, That John Johnston, a Bailiff of the Court of King's Bench, in sending for Mr. Justice Foucher, a Member of this House, when attendant on his duty therein, and on his withdrawing in consequence, into the Wardrobe or Antichamber thereof, having served upon him, a Summons, is guilty of a contempt and breach of the privileges of this House.

"Mr. Richardson moved to resolve, seconded by Mr. Mure.

"That John Johnston, a Bailiff of the Court of King's Bench, for such breach of the privileges of this House, be taken into custody by the Sergeant at Arms, and that Mr. Speaker do issue his Warrant accordingly.

"The House divided on the question: Yeas 19; Nays 3

"And there being a majority for the affirmative, it was Resolved accordingly"

The following day, Mar. 9, "The Speaker acquainted the House, that agreeable to the order of the House, he had signed the Warrant to apprehend John Johnston.

"A petition of John Johnston, one of the Bailiffs of the Court of King's Bench, was presented to the House by Mr. Pyke, and the same was received and read.

"Setting Forth: - That it is with sincere sorrow, he learns that he has incurred the displeasure of the House, by an unintentional breach of the privileges thereof, in sending for Mr. Justice Foucher, a Member of the House, when attendant on his duty therein, and on withdrawing in consequence into the Wardrobe or Anti-chamber thereof, having served upon him a Summons.

"That the petitioner in so doing, was wholly ignorant that he was guilty of contempt and breach of the privileges of the House than which nothing could be farther from his wishes and intentions as it has been, and always will be his pride to act on all occasions, with, the respect due to so important a branch of the happy Constitution of the Province.

"He therefore takes the liberty to express his sincere sorrow for his offence, and he humbly hopes that the House will be pleased to pardon his unintentional transgression, and consent that the order for the Arrest of the petitioner may be discharged.

"On motion of Mr. Richardson, seconded by Mr. De Salaberry,

"Resolved, That no further proceedings be had against the said John Johnston." Est finita la comedia!

February 15, 1808:

On February 15, 1808 it was

"Resolved, That this House, do now resolve itself into a Committee of the whole, on the petition of Ezekiel Hart, Esquire, presented to this House the twelfth instant.

"Ordered, That the said petition be referred to the said Committee.

"Accordingly the House resolved itself into the said Committee.

"Mr. Speaker left the Chair,

"Mr. Vigé took the Chair of the Committee;

"Mr. Speaker resumed the Chair,

"And Mr. Vigé reported, that the Committee had made some progress, and had directed him to move for leave to sit again.

"Ordered, That the said Committee have leave to sit again.

"Resolved, That this House will, tomorrow, again resolve itself into a Committee of the whole House on the said petition.

"Then, on motion of Mr. Weilbrenner, seconded by Mr. Vigé,

"The House adjourned." (also in Quebec Gazette, Feb.18; in Le Canadien, Feb.20, 1808, P.51, and in Mercury, Feb.22,1808,P.62)

February 16, 1808:

"The order of the day for the House to resolve itself into a Committee of the whole, on the petition of Ezekiel Hart, Esquire, presented to this House the twelfth instant, being read --

"The House resolved itself into the said Committee.

"Mr. Speaker left the Chair,

"Mr. Vigé took the Chair of the Committee;

"Mr. Speaker resumed the Chair,

"And Mr. Vigé reported, that the Committee had come to a resolution, which he was directed to report, when the House will please to receive the same: and he read the report in his place, and afterwards delivered it in at the Clerk's Table, where the same was read, and is as followeth, vizt:

"Resolved, That it is the opinion of this Committee, that an enquiry be made, tending to establish the reasons for which Ezekiel Hart, Esquire, did not take the oath in the customary manner.

"On motion of Mr. Mondelet, seconded by Mr. Cartier,

"Resolved, That this House doth concur with the Committee of the whole House, in the said resolution.

"Mr. Mondelet moved to resolve, seconded by Mr. Caron,

"That this House will, on Friday next resolve itself into a Committee of the Whole, to enquire into the reasons for which Ezekiel Hart, Esquire, did not take the oath in the customary manner.

"Then, upon motion of Mr. Mure, seconded by Mr. Richardson,

"The House adjourned." (Also in Quebec Gazette of Feb 18; Le Canadien, Feb. 20, 1808, P.51; the Quebec Mercury of Feb. 20, and 22, 1808 report that there was a long debate on the question, a debate of which we have no record.)

HART IS QUESTIONED

The morrow, February 17,

"On motion of Mr. Richardson, seconded by Mr. J. Cuthbert,

"Ordered, That the resolution of yesterday, for an enquiry to be made tending to establish the reasons for which Ezekiel Hart, Esquire, did not take the oath in the customary manner, be now read --

"And the said resolution was read accordingly.

"Resolved, That the said resolution be rescinded.

"Ordered, That the entries in the Journals touching the manner in which Ezekiel Hart, Esquire, (returned to serve in this House as a Member for the Borough of Three-Rivers) took oath prescribed by the 31st of his present Majesty, chapter 31st, be now read --

"And the said entries were read accordingly.

"Resolved, That the manner in which the said Ezekiel Hart, Esquire, took the said Oath is that practised in the Courts of Justice, when Oaths are administered to persons professing the Jewish religion.

"Resolved, That this House do now receive information from the Members thereof, or any of them, touching their knowledge of the religious profession of Ezekiel Hart, Esquire.

"Accordingly the House proceeded to receive the said information.

"And Mr. Mure in his place, acquainted the House, that a few days ago, Mr. Hart informed him, personally, that he was brought up in the profession of the Jewish religion, and that he was still of that persuasion.

"And Mr. Mondelet, in his place, acquainted the House, that in a recent conversation with Mr. Hart, the said Mr. Hart, told him, he could not deny that he was a Jew; that he had always professed, and did still profess the Jewish religion; and that this avowal on the part of Mr. Hart, was made since he has been soliciting to be permitted to take his seat in the House, and since he took Oath.

"And the Honorable Mr. Justice Foucher, in his place, acquainted the House, that to his certain knowledge, the said Ezekiel Hart, is a professed Jew; that he has attained this knowledge from having known him to be a Jew from the beginning of the year 1803. That he (Mr. Hart) follows the Jewish customs, and that in the Courts of Justice he never took the oath but in the form it is taken by Jews. Mr. Justice Foucher, further added, that as a Judge, he particularly knows the said Hart to be a Jew; as he had, lately, in person, pleaded before him, for certain privileges to which he conceived he had a right, to wit: that of not being summoned to appear in the Courts of Justice on Saturday, it being his Sabbath day, and that of the Jews.

"Resolved, That it appears to this House, that Ezekiel Hart, Esquire, returned to serve in this House as a Member for the Borough of Three-Rivers, is of the Jewish profession of religion.

"Resolved, That the said Ezekiel Hart, Esquire, be heard at the Bar of this House, on Friday next, by himself or Council, if he shall see fit, on the legality of his pretentions to take his seat in this House, and to sit and vote therein, notwithstanding his being of the Jewish religion, and his having taken the Oath in the manner customary only for persons of that persuasion.

"Ordered, That a copy of the Resolutions and information of this day, respecting the said Ezekiel Hart, Esquire, be furnished to him by the Deputy Clerk of this House." (also in Quebec Gazette, Feb. 25; in Le Canadien of Feb. 20, Pp.51-52; in Courier de Québec, Feb. 20, 1808, P.27 and in Quebec Mercury of Feb. 22)

These resolutions were communicated to Hart, as was the "Information given by Sundry members of the House of Assembly touching the religion of Ezekiel Hart, Esq., returned a representative for the Borough of Three Rivers," as in the Journal cited.

February 19, 1808:

On Friday, Feb. 19, 1808, the Journals report,

"The order of the day for hearing Ezekiel Hart, Esquire, at the Bar of this House, by himself or Council, if he shall see fit, on the legality of his pretentions to take his seat in this House, and to sit and vote therein, notwithstanding his being of the Jewish Religion, and his having taken the Oath in the manner customary only for persons of that persuasion, being read --

"The said Ezekiel Hart, Esquire, was called in, and the order of the day being read.

"The said Ezekiel Hart, Esquire, was heard at the Bar of this House.

"And then he was directed to withdraw.

"Mr. Richardson moved, seconded by Mr. Attorney-General, to resolve,

"That this House do resolve itself into a Committee of the whole House, on Monday next, to take into further consideration the petition of Ezekiel Hart, Esquire.

"Mr. Taschereau moved in amendment, seconded by Mr. De Salaberry, to strike out 'Monday,' and insert 'Wednesday,'

"The House divided on the question:

"Yeas 13 Nays 21

"So it passed in the Negative.

"Mr. Mondelet moved, seconded by Mr. Vigé in amendment to Mr. Richardson's motion, to strike out 'on Monday next,' and insert, 'tomorrow.'

"The House divided on the question:

"Yeas 19 Nays 15

"The main question as amended, was now put, and was carried, upon a division, in the affirmative, by a majority of four.

"Resolved, That this House will tomorrow, resolve itself into a Committee of the whole House, to take into further consideration, the petition of Ezekiel Hart, Esquire."

The Courier de Québec in a rare bit of parliamentary reporting, adds a few details,

"Mr. Blackwood requesting the order of the day, it was read. The Speaker instructed the Sergeant at Arms to close the bar of the House and to notify Mr. E. Hart that the House was prepared to hear him. Mr. Hart then came forward and, addressing the Speaker, he said he had come to maintain the legality of the oath he had taken."

The official Journals are silent as to what Hart said at this hearing by the Assembly, but we are fortunate enough to have press reports of this appearance of the Jew on trial. The Quebec Gazette of Feb. 25 and the Quebec Mercury of Feb. 22 both report that Mr. Hart appeared at the Bar, and spoke, as nearly as we could collect, to the following purpose -- "Mr. Speaker, I acknowledge having received a communication of the resolutions of this House regarding me, and calling me to state my pretentions to take my seat in this Honourable House, and why I took the oath in the manner which it was administered. Mr. Speaker, I neither required nor did I wish to take oath in the form it was administered. I took it in the words of the Act of the 31st of His Majesty and in a manner binding on my conscience. I profess the religion of my father; a religion tolerated by my King and Country and not forbidden by the Constitutional Act. Mr. Speaker, I think I have a right to take my seat in this Honourable House, and I am now ready to do my duty therein, and I wish to have the opportunity of returning the obligations I have to those who elected me. I have no further observations to make."

The Courier explains the discussion which took place in regard to the date for the further consideration of his case. The date proposed by Mondelet and Vigé, tomorrow, happened to be Saturday, and "some members objected that Saturday being Mr. Hart's Sabbath, he would be prevented from hearing his case. Judge Foucher observed that he did not believe that it was forbidden for Jews to satisfy their curiousity on the Sabbath and, besides, Mr. Hart had been elected on a Saturday.

"Mr. Planté argued that if Mr. Hart could not come to the House on Saturday, it would be very difficult to hold his seat; and that if Mr. Hart is admitted to a seat in the House, it would be deprived of his presence on Saturdays, and he felt that he could conclude from this that Mr. Hart was unlikely to make a member such as the others, etc." (Feb.20, 1808, P. 28)

THE DEBATE OF FEB. 20, 1808

The next day, the 20th of February,

"The order of the day for the House to resolve into a Committee of the whole, to take into further consideration, the petition of Ezekiel Hart, Esquire, being read --

"The House accordingly, resolved itself into the said Committee.

"Mr. Speaker left the Chair,

"Mr. Vigé took the Chair of the Committee;

"Mr. Speaker resumed the Chair,

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

"Ordered, That the report be now received.

"And he read the report in his place, and afterwards delivered it in at the Clerk's Table, where it was again read, and is as followeth, vizt:

"Resolved, That it is the opinion of this Committee, that Ezekiel Hart, Esquire, professing the Jewish Religion, cannot take a seat, nor sit, nor vote in this House.

"Mr. Justice Foucher moved, seconded by Mr. Cartier, that the question of concurrence be now put upon the said resolution.

"The House divided upon the question:

"Yeas 21 Nays 5

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

"Accordingly, the said resolution was again read, and the question put thereon,

"The House again divided:

"Yeas 21 Nays 5

"So it was carried in the affirmative, and

"Resolved, That Ezekiel Hart, Esquire, professing the Jewish Religion, cannot take a seat, nor sit, nor vote in this House." (also in Quebec Gazette, Feb. 25,1808, in Quebec Mercury of Feb. 22, and in Le Canadien of Feb. 27)

The Courier reports that the vote was the same in committee and in the House. (Feb. 24, 1808)

We note the general import of the resolution -- not oath problems, but simply -- a Jew cannot sit. We shall hear more of this from higher authority.

Every effort to elucidate the events of this period is hampered by the lack of sources. The major resource is the Journals of the Assembly, and these are all too sparse and confined. Historians and political scientists are frustrated by any condition of investigation limited to any such basis of information on recent history. They are no hansard. The Journals contain no debates. and discussions of committees, even of the Committee of the Whole, are totally absent.

But during the stormy, even revolutionary, period under this review this resource is put under direct question by the opposition to the administration.

"Letter to the Printer" of Le Canadien urges all who can give information on this subject, from whatever party, to communicate with the public through your periodical, now the only one being published in French. "As I have not been given access to the Journals of the Assembly since its prorogation it is not to be expected that we may have all the desired exactitude in these reports, and this is the more reason to call for information from all sources." (May 20, 1809, Pp.111-12)

The press is but little helpful; it reprints the Journal's entries. Nor is there editorial comment.

In its brief summary of the minutes of the Assembly for Feb. 20 the Courier de Québec editor regrets the sparseness of its own report,

"We wish we were in a position to give our readers the debates on this motion. It would be apparent that this question was warmly discussed and that on both sides the most learned research have determined the vote." (Feb. 24, 1808, P. 28)

One major informative resource is the vigorous and hostile Le Canadien. It is helpful because it restates the case of its spokesmen in the legislature. Unfortunately two key issues of their periodical are totally lost. As the Hebrew has it, the work of Satan. The reader is left with painful frustration, and must be content with the surviving record. But we are grateful for what survives.

We are fortunate to have a fuller report in the Le Canadien of March 2 of the debate. The editor apologises for his delay in bringing this report,

"We had been obliged for lack of space in our last issue, to postpone the report of the debates on the subject of Mr. Hart until today, and, in view of the length of these debates, we can only give their substance.

"Debates on the Subject of Mr. Hart, Jew.

"The advocate general was of the opinion that the question to be put is not whether a Jew could sit in the House of Assembly, but rather we should limit ourselves to deciding that he could not take the necessary oath or oaths. He based his views primarily on the fact that all oaths are taken on the Evangels, the Sacrosanct Evangels of God. It is admitted that Jews take their oaths in courts of justice on the Old Testament only, as other persons are permitted to swear according to the forms of their religion; but this is only tolerated as a matter of necessity, and that this necessity does not exist in oaths of office. There was no necessity that a Jew sit in Parliament, and he cited passages from Coke and Hale Pleas of the Crown."

To interrupt the report of Le Canadien, Le Courier quoted the attorney-general,

"To admit a Jew to a seat on his own oath, it would need to be argued that the government cannot exist without a Jew sitting in parliament. He intended to move that the oath ordered by 31 Geo. III should be taken by any person returned to serve as a member of our parliament before sitting or voting there. Following this motion he was to submit two others. Planté feared that this would go far from the question under discussion." (Feb. 24, 1808)

To return to Le Canadien.

Before examining the historical debate which marks that day as a landmark in Canadian Jewish history we may note its comment in the issue of Apr. 2, 1808 on one participant whose support was not welcome -- on the grounds of decency:

"It was Judge Foucher who proposed in the Assembly Chamber that Mr. Hart, professing the Judaic religion, cannot be admitted to sit in this Chamber.

"Mr. Mure said on this occasion that it were more decent for this motion to come from any member other than the honorable judge, for it was known that the honorable judge was concerned, and had taken an active part in the election at Three Rivers against Mr. Hart; that the honorable judge was himself one of the representatives of the constituency. That he was proposing this motion when there was a question of excluding him as a judge. That it was surprising that the honorable judge proposed this motion without giving any reason or throwing any light whatever on the subject; that the honorable judge appeared to be eager to vote, but seemed to be poor in reasons for doing so. That much has been said of the reasons given by honorable judges, but if we have to wait for the views of the honorable judge to base a judgment on this important question, we shall always remain in the dark.

"The Hon. Judge de Bonne also did not find it necessary to cast any light on the question of Jews in the Assembly Chamber, even though he has expressed himself openly and warmly in the Chamber against their admission."

Tassé also reports that,

"Judge Foucher was among those who contributed most to have Mr. Hart expelled. It was he who proposed that Mr. Hart, professing the Judaic religion, could not be admitted to a seat in this House. Mr. Mure replied with a well-aimed thrust. He said that as one of the representatives of Trois-Rivières, it was not loyal of him to combat in the House the man he opposed in the elections, and that it was equally inappropriate to institute a case against the Jews at this time in the House."

"The Hon. Judge de Bonne also felt he should not give his views on the question of Jews in the Assembly, even though he had declared himself openly and warmly in the House against their admission." (P.81)

("Judge Foucher had been elected unanimously at Trois-Rivières, but," De Lotbinière said gently, "I can say nothing of his part against Mr. Hart in the last election there." (Le Canadien, Apr. 2, 1808, P.2)

(Foucher was a veteran of the Assembly, having been elected on July 20, 1796 for Montreal West. He served thus until June 4, 1800. On July 28 of that year hewas elected Assembly member for York County and served until July 13, 1804. That August, on the 6th, he was chosen as member for Trois-Rivières, a position he held until Apr. 27, 1808

(Judge Foucher was named in the Legislative Council unfavorably by the Hon. De Lotbinière on March 15, 1808 during the debate in regard to the eligibility of the judge for seats in the Assembly.

(The argument had been raised as to the excessive influence of judges upon the electorate.

(Foucher abandoned his political career when he was named judge of King's Bench in Montreal in 1812.)

We may recall, if only to lighten our story, that but a year earlier Justice L.C. Foucher had a vigorous neighbourly experience with Moses Hart, brother of Ezekiel. It appears that a cow belonging to the judge wandered into the fields of Moses Hart to graze where it had no business. Hart's hayman, Gabriel Bodin, locked up the cow until the judge heard of it. He came with a big stick, and no less effectively with threats and insults, and took back his cow from Hart's land, daring Moses to do what he could. Not to speak of the humiliation of the judge in the recent incident with the messenger of the House acting for Ezekiel Hart.

It was a truly historic debate because that day two great spokesmen for Lower Canada met head on in regard to a subject that bore within it important and durable issues of immediate law and of ultimate principle, and which also awoke deep sentiments and usages rooted in a very ancient past.

The major spokesmen, personages of great ability, spoke for powerful forces in Canada: John Richardson and Pierre Bédard.

The alignment was tragic in one sense: the leaders of the status quo, who opposed many changes which history proved necessary, supported the Jewish member who was the precursor of the rights of future time, rights for the Jews, and thus represented a major change in society. The spokesman for revolutionary change, for a greater role for the majority group in government, for government at least responsible to the elected deputies, for the group rights of their francophone society -- these political persons who can be fairly called advanced -- were fighting vigorously for an old status quo based on religious and racial discrimination and persecution, even while they were themselves victim of a parallel racial discrimination in the colony and in the British metropole. They were seeking to give greater strength in the House of Assembly to the ritual wording of a symbolic oath which was the very instrument of the inquisition long being applied to their coreligionists in England.

Le Courier summarizes the alignment: "Mm. Foucher, Planté, Bédard and the Speaker expressed themselves in favor of the motion, and Richardson, Mure, Blackwood, De Salaberry and James Cuthbert against." (Feb. 24, 1808)

At the beginning of the century the most vigorous political figure to agitate against Hart was Pierre-Stanislas Bédard, leader of the opposition to the English-dominated government.

We know of no personal circumstances that might have created hostility against Mr. Hart, nor of any general anti-Jewish prejudices Bédard might have entertained. But he was a devoted champion of the interests of the French-Canadian group, of its heritage and culture, one of the eloquent men of Canadian history, and Hart did not represent these Canadian interests in Bédard's mind. Ezekiel Hart would not likely become part of Bédard's voting block, nor battle against governor Craig. Bédard was not likely to name his son Ira James Craig, as Ezekiel was to do in August, 1809.

Bédard's Le Canadien was one of the most vigorous publications in Canadian history, and this at a time when other periodicals were sparing in their comment. It was vitriolic in tone, but cannot be faulted on its information or learning.

Its treatment of the Hart case is among the most important and careful in all its pages. It has been labelled anti-Semitic by some Jewish readers. Dr. Isidore Goldstick, wrote.

"It appears that the original motive for the opposition to Ezekiel Hart was not his religion but his alliance with the English members of the House, with whom the French representatives were at loggerheads, as well as his friendship with Sir James Craig, the then Governor-General of Canada, who was a persona non grata with them. But whatever may have been the original incentive for contesting Hart's eligibility, the debates in the House soon assumed a violently anti-Jewish tone, as did also the utterances of the French weekly Le Canadien, the only French periodical published in Canada at this time." ("An Idol among Iconoclasts," in Jewish Standard, Sept. 30, 1932. Pp.126, 160)

At the time of the Hart affair, Bédard had been sitting as member of the House of Assembly for Northumberland since 1792. He was to sit there until his elevation.

Governor Craig was so irritated by the libellous and seditious Le Canadien that he dismissed Capt. Bédard from the militia. But such is Quebec history that this did not prevent him from serving as an officer in the war of 1812. (F.-J. Audet. "L'Hon. Pierre-Stanislas Bédard", in Royal Society of Canada, Mémoires, 3rd series, vol. 20, 1926. P.38; and Lady Edgar. General Brock, Toronto, Morang, 1904. P. 104)

Soon after the Hart case in 1810, it landed its editor in prison, but no charges were laid. The authorities found it hard to get Bédard out of their stone walls, as he refused to be bandied about from freedom to prison to freedom without due process.

Craig's successor elevated Bédard to the bench in 1812.

John Richardson, one of the heroes of the story as eloquent and learned defender of Hart's cause, is a prominent figure in Canadian history. Collard speaks of him as a confidential agent of the imperial government in Canada, a dedicated loyalist of great energy and integrity, who shaped the economic and political life of the colony.

He had at least one Jewish associate in founding the Bank of Montreal in 1817, David David. He sat in the Assembly for Montreal East from 1792 to 1796 and for Montreal West from 1804 to 1808.

Edgar Andrew Collard has recorded a vivid portrait of Mr. Richardson in an article on the Christ Church Cathedral in the Montreal Gazette of April 26, 1980 ("A Walk through the Cathedral").

Richardson is commemorated by a plaque and by a great chancel window in the cathedral.

"He was commanding in two ways: by his physical stature, and by his role in the city's life.

"One old account says he was 'exceptionally tall and of majestic bearing'. Another account confirms the impression: 'He was of majestic height...His smile was fascinating...Yet his frown was awful. -- Even his equals in rank and station quailed beneath it...'

"His life had been adventurous, as well as successful. As a young Scot he had come to New York, in the days before the American War of Independence, while it was still a British colony. In New York he was in business, as a supplier to the British Army.

"When the American Revolution broke out,he went to sea on a privateer named Vengeance. Privateers were vessels owned and commanded by private persons, though sailing under the authority of the government. They sought out and attacked ships of the enemy. Officers and crew shared the spoils of any ships captured -- the value of the ships and their cargoes.

"Being a privateersman was an adventurous life, but for Richardson it was to prove a misadventure. His first and only voyage began well; several enemy ships were captured. Then the privateersmen encountered a British man-of-war. By some mistake (though friendly signals were made by the Vengeance), the man-of-war opened fire on them.

"Richardson was unharmed, though several of the crew were killed. The commander of the British man-of-war, realizing his error, still showed no mercy. He sailed off, leaving the crippled Vengeance to creep back to port as best it could.

"After the American Revolution, John Richardson settled in Montreal. He became one of the most important fur traders and general merchants.

"Richardson not only served the city in his own time; he had a part in setting up many of the notable institutions and landmarks still in the city today.

"He was the chief founder of the Bank of Montreal, known as 'The Father of the Bank.' He was among the principal founders of the Montreal General Hospital. In 1822 he presided over the 'Meeting of Merchants' that founded what is now the Montreal Board of Trade. He was active in erecting the Nelson Monument in Place Jacques Cartier.

"Richardson led the movement to build the Lachine Canal. On July 17, 1821 he performed the symbolic ceremony of 'breaking ground' -- a ceremony that began the canal's construction.

"Afterwards, while the crowd was entertained with the roasting of a whole ox and with free beer, Richardson and the other commissioners adjourned to Connelly's Inn for a dinner of their own.

"When Richardson died in 1831 all flags were at half-mast in the city and on the ships at the waterfront."

Chapais names Richardson, Sewell and Bishop Mountain as the guiding spirits of the government party. Richardson and John Mure were among the more prominent members of the North West Company at this time. François-Xavier Garneau writes of him in the same terms. (Histoire du Canada, 8th ed., revised and expanded by Hector Garneau. Montreal, Editions de l'arbre vol. 8, Pp. 60-77)

In 1804, too, he was named to the Executive Council, a position he occupied until his demise in 1831. In 1816 he was named to the Legislative Council of which he was Speaker during the last year of his life.

As early as the first days of the Assembly he fought vigorously for a Lower Canada whose language is English. Even then he found himself opposed by Bédard, De Bonne and Panet. Then, too, Panet was elected Speaker in spite of the English vote. In that legislature it was Richardson who proposed the measure for regulating the currency of the colonial realm. (Garneau. vol. 7, Pp. 14-15, 36-38)

Richardson crossed swords soon after with Bédard again on a taxation amendment proposed and carried by the spokesman of the Canadiens, which shifted the burden from the farmers to the commercial interest. (Pp. 57-59)

Richardson, the defender of the rights of Ezekiel Hart, was an important, if quiet figure in the movement for the unification of Lower and Upper Canada, to make the first Canadian government. In this sense he is one of the Fathers of Pre-Confederation. Chapais records that Richardson was in constant communication with Edward Ellice. A resident of Canada for many years with old interests in the country, Ellice, once Richardson's employer and later partner, was a member of the London Commons for Coventry. Early in the 1820's he was active in promoting the union of the two Canadian colonies, being in a sense the agent of the English-speaking group in British North America which was strongly in favour. Garneau identifies this group with the North West Company whose Canadian directors included Richardson and his friend McGill. An important public meeting was held in Montreal for this cause in October 1822 under the chairmanship of Richardson.

As chairman of the Montreal committee for such union, Richardson submitted a lengthy petition bearing 1452 signatures of local men of British descent. (Report on Canadian Archives 1897. Pp. 32-37, and Garneau)

Richardson also fought the good fight in the council. But the plan was not to be realized for nearly a score of years. (Garneau. vol. 8, Pp.68-77)

In 1821 he was the centre of a political storm when he publicly charged that a secret cabal of assemblymen was scheming even to unseat the governor. These bold words brought French-Canadian demands for his removal from offices of trust and for a denunciation by the Legislative Council. The governor had to use extreme fiscal powers which the constitution had placed at his discretion to resolve this crisis. (William Kingsford, History of Canada. Toronto, Rowsell & Hutchison, 1897. vol. 9, Pp.276-79)

A decade later the strong words Richardson used of Papineau in a debate on finances might have been the occasion of a duel. Kingsford is almost surprised that "Papineau left Richardson's remarks on his conduct unheeded." (Pp. 459-60, and in François-Xavier Garneau. Histoire du Canada, 8e ed., revue et augmentée par Hector Garneau. Montreal, Editions de l'arbre. vol. 8, Pp. 60-63) The incident created a clash between the two chambers of parliament, and came to the governor. (Also, E. Cruikshank, in Papers and Records of the Ontario Historical Society. vol. 5, 1905. Pp. 20-21)

In a long, closely reasoned legal statement Bédard argued that the rights of Jews, e.g. to sit in a legislature, in England or in the colonies, were never stated in law, in spite of what may appear as relaxations. In expanding on this he was carried away in a justification of the medieval laws. He was not the first advocate to proceed from defending a legal point to justifying the law.

In effect Bédard drew a scale of privileges, implied or specified, ranging from the human right of a person needing to reside somewhere; to the existence of oaths requisite by social necessity such as in the courts; to the rights of a Jew when these are accorded as if he were a natural-born British subject; to the limited rights of a truly English-born Jew; to the range of rights to office and civil and military places in the colonies -- and even in England — to the right to sit in a legislature.

Richardson told him that this retrograde sophism tended to nullify all the rights of all subjects in the empire.

In the same debate the government party broke lines, and the anglophone attorney general, an official of the government administration and a leader of its party, spoke against his party colleague who was under attack solely because of his party affiliation.

Remarkably, to bolster his views, this judicial officer of the colony departed entirely from the realm of English or even French law, and based his case upon Catholic, religious cannon law. For what reasons?

To return to Le Canadien,

"Mr. Richardson said that by Statute 13 Geo. II, chap. 7, Jews had all the privileges of subjects born in the Colonies of America, and that the statute gave them the means of taking the oath of allegiance in a manner available to them, so as to omit the terms: 'on the Faith of a Christian' to be found at the end of the oath, and therefore no exception can be taken against them as to the form of the oath.

"'The question to be decided,' said Mr. Richardson, 'is whether a Jew could sit in the House of Assembly,' and on this question there is no doubt that Jews naturalized by Act 13 Geo. II, cap.7 can sit there, for this act grants them all the rights of natural born subjects of His Majesty except only seats on His Majesty's Privy Council, seats in the parliament of Great Britain and civil and military offices and places in the Kingdom of Great Britain. He felt maintained in his opinion by those given to His Majesty by the officers of the Crown in England. They have declared that any person born outside the allegiance to His Majesty who has been naturalized by a special act of the British Parliament, or by consequence of Statute 13 Geo.II, chap. 7 (which he had just cited) to naturalize strangers in general in ay of the domains of His Majesty in America, were capable of voting and of being elected members of the Assembly of Lower Canada.

"Mr. Richardson noted that one of the officers of the Crown who had given this opinion was now the Lord Chancellor of England. He added that Act 13 Geo. II, cap. 7 had been confirmed by 13 Geo. II Chap. 25; that doubts having arisen whether those naturalized by the earlier statute could obtain office or civil or military posts and land concessions from the Crown, the latter statute had cleared these doubts and declared that they could obtain all offices and military and civil places (except in the Kingdom) and that in consequence they could take seats in the Assembly. Finally, he said that if a naturalized Jew could have this privilege, it is all the more clear that a natural-born subject of His Majesty should have it, for it would be absurd for a naturalized Jew to have more privileges than a natural subject; that the naturalized father, for example should have this privilege, and that his son, who was a natural born subject, should not be able to have it.

"Mr. Mure and Mr. Ross Cuthbert were of this opinion, which they supported with their arguments and observations. They all said that all prejudices against the Jews should be set aside, and that the decision should be arrived at according to the law.

"In support of his opinion the Attorney General cited a passage in the canon law, which is approved by the laws of England, in which it is said that the oath is to be taken on the Holy Evangels, the Very Sacred Evangels of the Lord.

"And as to what had been observed that the Jews naturalized by Statute 13 Geo II, Chap. 7 were by this same statute authorized to omit the words 'on the faith of a Christian' in the oath of allegiance, he said that this oath had been altered in some respect (in regard to title of the Crown) by Statute 6 Geo. III, chap.53; that it was ordered by this last statute that all persons in office would take this oath, and that no act had been passed since to authorize Jews to take the oath in their manner, and to omit the words 'on the true faith of a Christian', and that therefore it is impossible for a Jew to be admitted to any office nor, in consequence to sit in Parliament.

"Mr. Bédard said that, as for the oath, Statute 13, Geo. II gave the Jews the means to take it if they are not prevented thereby from enjoying all the advantages given them by the statute, and that therefore it will always be needful to learn whether, by this statute, a Jew can sit in the House of Assembly.

"That it was true that the Attorney General had cited an act which has since altered something in the form of the oath of allegiance; but that this did not prevent Jews from taking the oath in the manner permitted them by Statute 13 Geo. II, for this last statute permits them to take the oath of allegiance in general in this manner, and that this permission is not related to the particular that the oath had at the time. That, but for this, this statute would be abrogated, as far as Jews are concerned, by the statute last cited where it appears no thought had been given to Jews nor to the statute enacted in their favour.

"That he therefore believed that attention should center on whether Jews can be admitted to sit in the Assembly according to statutes cited in their favour. On this question he was of the opinion that they cannot.

"Statute 13 Geo II, chap. 7 states that persons who have resided in the American Colonies etc. 'shall be deemed, adjudged and taken to be, His Majesty's natural born subjects of this Kingdom, to all intents, instructions and purposes, as if they and every of them had been or were born within this Kingdom.'

"He asked the Members to note these last words because, in his view, it is on this that the interpretation of the Statute depended in the present case; that the honorable members who thought that Mr. Hart should be admitted to sit in the House of Assembly by virtue of this statute understood that the persons of whom it speaks should, after seven years' residence, be regarded as natural born subjects of His Majesty in a general way; consequently, according to them, a Jew naturalized by this Statute would have the same privileges as any natural born subject of His Majesty; the same, for example, as a Protestant natural born subject of His Majesty. Instead he believed that Jews naturalized by this Statute can have only the privileges of Jews born in the Kingdom; that is to say, the same privileges which they would have 'as if they had been born within this Kingdom.' It is thus that he understood Blackstone, and these are the very terms of the Statute.

"He cited Blackstone's Commentaries, Bk.1, Chapt.10: All alien Protestants and Jews, after residence of seven years in the American Colonies...shall be...naturalized for all effects and purposes as if they had been born in this Kingdom, etc; that is why they shall be admitted to all the privileges to which all Protestant or Jewish subjects born within this Kingdom are entitled. As to what these privileges are, particularly in regard to Jews, this has been the subject of very extensive debates at the time of the famous Jews Bill.

"So, according to this author, and according to the terms of the Statute, we must return to the question: What are the privileges of Jews born within the Kingdom? And, in effect, how can we imagine that the Statute would put naturalized Jews in a better condition than the very Jews born within the Kingdom?

"He further said that he considered it a certain point that Jews born in the domains of His Majesty cannot be admitted to sit in the parliament of this province, any more than in any other parliament dependent of the British Empire; that the honorable members are aware of this since they base their case on this Statute only because they are convinced without this Statute no Jew would have this right.

"That in effect it was well known that, before the Jews were driven from England, they had never enjoyed the rights of a citizen; that they had always been regarded as the property of the King; that he had the right to imprison them and to sell them singly or as a group; that since they were recalled by Oliver Cromwell they had been accorded no new privilege, and that they have remained at the discretion of the King; that an attempt was made at one time to place them in a more advantageous position by an act of Parliament, but that this act could last only several months. That their condition was no better in other Christian lands; that none accorded them the rights of a citizen; and that this was not rendering them an injustice, since they themselves do not wish to be citizens of any country.

"That they were dispersed in all countries because they had to be somewhere, but that they considered none of these as their own; that they lived in the land where they could carry on their business and that they only called it 'the land of their residence'; that they were bound by their faith to act thus; that they awaited the Messiah their Prince, and that, while waiting, they could pledge their fidelity to no other Prince than the one for whom they reserved it.

"From all this he concluded that a Jew born within the Kingdom could not have the right to sit in any parliament within the Domains of His Majesty, and that Jews naturalized by the act of Parliament could not have greater rights than them.

"But that the person in question was a Jew born in the Domains of His Majesty, and he had no need for recourse to the Statute.

"That the members base themselves upon the Statute to find in favor of the Jews born within the Domains of His Majesty, saying that if naturalized Jews had the right in question, as they claim, a fortiori Jews born as city subjects should also have it.

"But it appeared unreasonable to him, whatever reasoning may be employed, that the rights of Jews born in the Domains of His Majesty can be augmented by a Statute that speaks only of naturalized subjects.

"That it is indeed true, as the honorable members said, that it would be absurd that a Jew born within the Domains of His Majesty would have fewer rights than a naturalized Jew; but that we must conclude therefrom that the Statute in question did not give more rights to naturalized Jews than to Jews born within the Domains of His Majesty, and that it is not to be supposed that the Statute had given greater advantage to naturalized Jews than they could have, and then to aggrandize the rights of Jews born in the Domains of His Majesty, to ensure that these be less than those of naturalized subjects.

"Mr. Richardson said that this reasoning is a sophism; that it could follow therefrom that the rights of natural born Jewish subjects would thus be reduced to nothing; that the interpretation given was contrary to that given to the King by the Officers of the Crown. That a Jew born within the Domains of His Majesty was 'a natural born subject, like all other subjects of His Majesty,' and that it was the right of all natural born subjects to be eligible for election as members of the Assembly.

"As to Statute 13 Geo. III, c.25, Messers Richardson, Mure and Ross Cuthbert said that it interprets Statute 13 Geo. II, chap. 7, declared that all persons naturalized under the latter Statute, and consequently all Jews, had the right to hold all civil and military offices and places except within the Kingdom, and they concluded thence that they were capable of having a place in the Assembly...

"The members on the opposite side argued that by the expression 'civil and military offices and places' we cannot include a seat in the Assembly; that the term is understood to refer to ordinary offices and places accorded by the Crown; that it is not to be supposed that the Parliament of Great Britain would have wished to give to Jews the rights to enact laws for Christians; and that this right cannot be accorded by implication -- that the expression 'civil and military offices and places', in their natural sense and ordinary usage, do not all include places in the legislature. That they did not at all have this extension in the act of Parliament, and that this becomes very clear by the excepting clause in Statute 12 Will.III, chap. 2 which is included in all Bills of Naturalization, and which, besides these expressions 'civil and military places' in the Kingdom, includes specifically the exception of 'seats in Parliament.' That this was made clearer still by the very Statute 13 Geo. III, chap. 25 itself now in question, by the fact that, after declaring that persons naturalized by Statute 13 Geo. III, chap. 7 shall be capable of holding 'civil and military offices and places,' it excepts only 'civil and military offices and places in the Kingdom '; whereas, for the civil and military offices and places to which they are to have right to include places in Parliament, it would have been necessary to omit the ordinary clause which includes the exception of places in Parliament.

"It was also noted that it is not to be concluded from the insertion of this excepting clause in Statute 13 Geo. II, chap.7 that those mentioned therein are eligible to all places except only that of Parliament and others in Great Britain; for this clause is ordinary, and should be included in all acts of naturalization by consequence of Act 12 William III, chap. 2; and as one proof that we cannot draw this conclusion is that of this Statute 13, Geo. II, chap. 7, in spite of its general expression, doubts have arisen whether those naturalized by it could hold civil and military office in the Colonies in America, it is required Statute 13 Geo. III, chap. 25 to allay these doubts."

Tassé continues,

"The objections raised here by Mr. Bédard were also discussed during the debates in the House of Commons in England in 1830 on the political rights of Jews. May also speaks thus in his Constitutional History of England, vol. 2, Pp. 474-75: The Jews were few in number, since we count not 30,000 of them in the United Kingdom. They were inoffensive and inactive in their relations with the State, and without any particular political character. It was even difficult to think of political reasons for refusing them the enjoyment of civic rights.

"Nevertheless such reasons were found. They were so rich that, like the nabobs of a century ago, they would buy seats in Parliament. An excellent argument, their friends replied for the reform of Parliament rather than against their admission. If it had meant it would apply to all the wealthy, whether they are Christian or Jewish.

"But they are of no country, replied their adversaries. They are strangers on the earth, with no sympathy for the populace. Relying upon Scriptural promises to bring them back to the Holy Land, they are not citizens, but travellers through other lands.

"If they are such, their friends take up their case, would they attach value to the rights of citizens which are being refused them? Would they wish to serve the country where they are strangers to the interests which engage other men? Are they less ardent in business, less occupied with wars, politics, state finance? Are they less accessible to the delicate influences of art, of literature and of society? How do they differ from their Christian fellow citizens if not by these bonds?"

These were not the last words in the debate which continued in several forms. It became part of the crucial partisan controversy of the period, and we shall note the argumentation as it developed in the context of the political debate. But Bédard's party sought out every occasion to establish their legal position.

So, for example, Le Canadien returned to the Hart case as it examined the political developments in Jamaica. The Royal Gazette of Nova Scotia, discussed constitutional problems on the island. (May 16, 1809) A London correspondent had written to a friend in Jamaica about the powers of the House of Commons and had noted that it was endowed with certain prerogatives considered necessary for the process of enacting legislation. Le Canadien cited this authority,

"The right of the House of Assembly to pass laws is incontestable, and this right once admitted, the powers of the assembly can be most clearly derived from this most certainly, for they extend to all that is necessary for the exercise of this right. The removal of any power needful for the exercise of this right would be a denial of this very right...So this principle, simple as it is, gives the powers of the House of Assembly all possible extent.

"Recently the question has arisen of the power of the Assembly of this province to exclude a member by resolution, this member being expressly disqualified by the act of the constitution or by any act passed since by the legislature of the province.

"It can be stated: the Assembly cannot exercise its power to enact laws as -- which amounts to the same -- it cannot be an independent branch of the legislature without itself having the power to conserve its independence and the honour and respect which are due to it. For, if to secure these it required the aid of other branches of the legislature, it is evident that it would be dependent upon them, and it would in consequence cease to be an independent branch of the legislature.

"But the House of Assembly cannot maintain its independence and the honour and respect due to it without it has the power to exclude members against whom it holds disqualified by established law; for example a member who was elected by the exercise of influence which visibly, publicly and notoriously ran counter to the freedom of the electors; a member who drew public contempt upon the Assembly by the infamy of his conduct, even by the public prejudice attaching to his condition...

"Once the powers of the Assembly established, it is within its powers to judge the particular circumstances calling for its application. It is not even bound to invoke them only in cases for which it finds precedents in the House of Commons of Great Britain, or to exercise them only for the same reasons and in similar circumstances.

"It would be ridiculous to say -- as some have said -- that it can act only in the same cases, for the same reasons and in similar circumstances; for these cases, reasons and circumstances may never be the same. And this indicates how this particular form of establishing the powers of the House of Assembly is more just and perfect than that founded on an analogy between the Assembly and the House of Commons of Great Britain and on the supposition that they enjoy the same powers.

"According to this principle the House of Assembly draws its powers from the same well as the Commons draws it: from the very need to use its powers; so they can vary according to their own needs.

"In the case which has arisen lately in the House of Assembly, in the matter of Mr. Hart, a Jew, there were members who argued that it was only because of a prejudice existing in this country against Jews that they sought his exclusion. Suppose that it was only a prejudice particular to this country, and that a Jew could very well be admitted into the Commons of England. Would not this prejudice be sufficient reason here? For, if the admission of a Jew into the Assembly of this country should have the effect of bringing contempt upon the House, what matter if it came through a prejudice or for a good reason?

"Let the Jews make this prejudice disappear, if it is a prejudice; let them wait until they made it pass away, and then present themselves as candidates." (July 1, 1809)

Tassé notes that, in arguing against civic responsibility of the Jewish citizen, Bédard was anticipating the objections made in London in 1830 to Jewish emancipation.

It is possible to lose sight of the cultural and political significance of one basic element of the debate, particularly as dealt with by the French Canadian spokesmen: obviously the discussion is being held in terms of British law and custom; obviously, because we are at this period in a British colony, governed under British law and under a constitution which is itself an act of the British legislature. We also note that Bédard and some of his associates are well trained as lawmen in the English tradition.

All this even though they are not Anglo-Saxon in blood and in culture, or in Christian communion with the majority of Englishmen or with the Church of England.

But we should add that these adopted French children of the British Empire were by conviction deeply attached to British parliamentary institution, to the British monarchy, aristocracy and democracy. (Dictionary of Canadian Biography, s.v. Denis-Benjamin Viger) It assists us in reading the documents of the day with the fidelity due to them.

Exactly 150 years later one of the first Canadian Jewish poet-journalists Hyman Edelstein retold this phase of Ezekiel Hart's story.

"It was Erev Shabbath--the afternoon of the last Friday of January in 1808. In the House of Assembly of Lower Canada, Ezekiel Hart, the first Jewish M.P. to be elected in Canada -- and for an overwhelmingly French borough, Three Rivers, where his father Aaron had settled some thirty years before -- waited outside the bar of the Legislature for the signal to have him admitted. He had taken the oath on the Holy Bible with head covered in the Jewish manner. Two French members testified to this; but the Jew was kept waiting while the House debated the regularity or otherwise of the form in which Ezekiel Hart had sworn his oath of allegiance.

"On the following Monday, February 1, Hart was still waiting. The House again considered the petition of the Jewish Member to be admitted to the seat to which he had been elected by a clear majority over his two Christian rivals (Messrs. Coffin and Bell). Hart insisted in his petition that his oath was strictly constitutional; but said he would have no objection to taking the Christian form of the oath if that were necessary to admit him to his seat in the Assembly. But the French majority in the House was up in arms against any such attempt to circumvent the law as they interpreted it -- in spite of the fact that the Jew was returned by the French vote. So the debate went on for three full weeks until all the testimony rather unnecessarily submitted to the House (which had resolved itself into a committee of the whole to consider Hart's petition) was accepted as demonstrating that Hart was a Jew (!). It was therefore...

"'Resolved, that Ezekiel Hart, Esquire, professing the Jewish religion, cannot take a seat nor sit, nor vote in this House.'

"This happened on Saturday (Shabbath) February 20, 1808... and the land had rest until May of the same year." ("Ezekiel Hart's Oath," in Jewish Standard, Sept. 15, 1959, Pp. 6-7, 64; also D. Rome Jews in Canadian Literature, A Bibliography. Montreal, Canadian Jewish Congress and Jewish Public Library, 1926. Pp. 10-20; 2nd ed. 1964, Pp.10-20).

A brief note in the Mercury mocked the Assembly.

"We hear that a bill is to be brought into the House of Assembly, for empowering Returning Officers to compel any Candidate suspected of Judaism, previous to the opening of the poll, on the hustings, in presence of the voters, to eat a pound of fat pork, as a test of his Christianity." (Feb. 22, 1808)

The same issue carried a long letter from "An Elector of Three Rivers" (P.58):

"As Mr. Hart is inferior to very few in the Assembly and superior to several, in point of situation; the objections then regarding him, must arise from his religious thoughts or superstitions; these differ widely from the other members, and ought not to be urged with any acrimony, or illiberality; such objections cannot but be stiled, religious ineligibilities and agreeable to the Canada Act of Parliament, cannot be introduced, into the house, in any other shape than by bill; which must be laid before the Houses of Parliament, previous to going into law; and where, if it did arrive that length, it would be thrown out; as it is evident what liberal strides, Parliament has been making of late, to shake off all religious intolerance, notwithstanding at times, awed by an ignorant, bigotted mob. An act of which parliament, is still in force in this province, framed for the British Colonies, declaring foreign Jews, after seven years residence, to be sworn agreeable to their form, and agreeable not only to the Assembly, but to any other place; hence, if this favor is to be heaped on a foreign Jew, it would be a hard case indeed, if it could be denied a natural born one. -- A similar immunity I believe the Catholics cannot boast of. Mr. Hart ought not to be denied his seat, for he has legally taken the oath, neither can he be expelled, but by bill; but admitting, the reverse to be the case. The House of Commons have always doubted, whether they possessed the privilege of expulsion. In the case of Alderman Crosby and Alderman Oliver, it was virtually abolished, for they were declared guilty of the highest misdemeanors, and yet they were not expelled. Mr. Wilkes May 3, 1802, moved that his expulsion be expunged from the Journals, which was agreed to, ayes 115, noes 47, majority 68. Mr. Fox, at that time, declared that any privilege, against the rights of the people, it

was improper to retain, and he recommended a bill to explain the rights of the Commons, with regard to expulsion.

"The Jews, in the United States, are eligible to any place, and hard then would be their lot, if they were denied that privilege, in this frigid wilderness.

"I view the majority of the town of Three Rivers insulted in the person of their representative; and I should presume, the bills passing the house, are not valid in law, as the town is deprived of its legal representation.

"I defy any person to allege any cogent reason, against his eligibility, or the manner of his subscribing the oath, and he has as much right to sit, as a Dissenter or Catholic. And it is not the right of the Assembly alone to dictate what religious sect we are to elect. I doubt very much, if the Assembly can assume the appellation, customs, and privileges of parliament.

"A Duke or an Earl might with equal propriety urge, that he possessed the stile and customs of a king, because forsooth, he was created hereditary, like the king."

On February 29 the Mercury returns to its defence of Hart in a further letter from "An Elector of Three Rivers":

"In my last I cited Mr. Wilkes' motion, May 3, 1802 for 1782. Since which the Assembly, have, with more rapidity and inconsistency than its attack formerly on the liberty of the press, come to an illegal, arbitrary resolution, that a Jew cannot take a seat, or vote in the house. -- To the ignorant, I disdain addressing myself. To the merchants, I need not; they are in general, of liberal understandings; but to the judges, lawyers and notaries in the house, who by professional habits, ought to have some tincture of the laws, I will appeal, and ask their unbiased verdict, if they can acquiesce in such an illiberal, unlawful motion, without a blush? -- I will now fully summon up the evidence. -- St. Dominick, vs. the tribe of Judah. By the Statute of 13 George II, cap.7, even foreign Jews, after seven years residence, in America, are declared natural born subjects, and to be sworn, agreeable to their conscience, whenever they enter into any office. This honor the Catholics did not obtain. By the last clause, of the Quebec Bill, this act of Parliament, heretofore made for the colonies of America, and every part thereof, is declared

in force in the Province of Quebec. And all laws which were in force under the Quebec bill shall continue in force in Canada, by the 33rd clause of the Canada constitutional Statute of Parliament. This last Statute puts Catholics upon a par with Jews, in Canada only, and the 42nd clause, positively enacts, that whenever any act shall pass the Legislative Council and Assembly of Upper or Lower Canada, which shall create or impose any religious penalties, burthens, disabilities, or disqualifications, it shall, previous to any declaration of the King's assent thereto, be laid before both Houses of Parliament in Great Britain. These are clear law evidence. I will now proceed, à la coutume de Paris, to commentators. Quebec Gazette, March 8, 1792, the 29th clause of the constitution, is thus defined. -- It is remarkable, for tenderness to the consciences of men, who are to sit in the Legislative Council, and House of Assembly, imposing only an oath of fidelity to the King and nation of Great Britain, which no inhabitant of this province can refuse.

"Extract of a report of His Majesty's Attorney and Solicitor General, dated July 6, 1792:-

"'We do most humbly certify, that all persons born out of your Majesty's legiance, who come within the act of 13 Geo. II, cap. 7, for naturalizing foreigners, in your Majesty's colonies of America, are capable of voting for, and being elected members of the Assembly of Lower Canada.' (Signed) W. Scott, A Macdonald,"

"The Elector of Three Rivers" continues by citing,

"'I see no legal objection to the eligibility of a Jew being elected and sitting in the Assembly of Lower Canada, on taking the necessary oaths.' (Signed) V. Grass, Attorney General. London, September 24, 1807." He continues,

"'The right of Mr. E. Hart, to be elected, and sit as a member of the house, I consider to be equal to that of any other member in it.' Apr. 20, 1807 (Signed) J. Reid.

"This motion therefore, is a daring innovation of the excellent Statutes of Parliament in force in this province, and is unfounded, and without precedence either in history, divinity, law, or customs of Parliament; for the Catholicks, by a simple motion to destroy the rights of a sect, more favored by the British nation, than themselves. Will our worthy Governor suffer the Assembly to deprive the Legislative

Council, the King, House of Lords and Commons, of their right of participation in such laws? Mr. Hart has legally been elected. has legally taken the oath, and is as legally a member, to all intents and purposes, and cannot be deprived of his seat, but on legal ground. If the assembly conceive themselves disgraced by the presence of a Canadian Jew; if the Catholicks wish to strip the Jews of their inherent birthright, let it be stated in a manly form, by bill, and not by a cowardly ascetick motion. Why was not this all powerful medicine, applied to exclude Judges? Let the Catholicks beware, that they are not fabricating a rod, which perhaps may ultimately be inflicted on themselves. I have been informed that Mr. Hart's religious superstitions have been sported with in the House; his superstitions are unmixed, however, with idolatry, and do not strew the high roads with wooden images. And these gentlemen forget that they entertain superstitions as gross, and of a much more mischievous tendency. Five millions of innocent victims in South America have been immolated to monkish frenzy. The present tyrannic ruler of France, strenuous, by every means, to raise his fallen commerce and finances, has decreed the Jews, the right of French Citizens, throughout his wide extended dominions, and elevated some to the legion of honor. Jews, in the United States, are sworn like Christians, uncovered, and often do not kiss any Book.

"It is not obligatory on them to be covered, and it is well known they are composed of different sects. I regard the custom of embracing a Book rather an offensive usage. A fellow who has the itch, mange, or some other unbecoming disorder in his mouth may communicate a disagreeable saliva to a decent person who smacks the Book after him. I conclude with remarking, that had Mr. Hart been a Catholick, and a balderdash, uneducated, seller of provisions on the market, his entrance in the House would then have been ushered in with every mark of respect. The assembly, instead of invading the liberty of the press and the conscience, ought to be its most zealous guardians.

"Mr. Hart has a right, to take his seat, even if a bill for his expulsion, as a Jew, is brought forward, and until carried into a law, else this town is deprived of its legal representation, and the laws enacting will not be valid. This motion has deprived the rest of the Jews of the right of petition, or to be heard by counsel, which they would have, through the different stages of a bill. A right conferred by usage of parliament, on the meanest subjects or slaves, in any law concerning them."

Whoever this anonymous Elector was, he certainly had access to the private letter of Chief Justice Reid which had been addressed to Ezekiel Hart.

Reid was closely associated with Ezekiel Hart and his brothers. During the nasty quarrels within the family after the patriarch died in 1800 it was Reid and David Ross who were named to arbitrate the complex, and at times childish, claims.

Douville spells out some of the claims of Ezekiel and Moses Hart which the arbitrators painfully examined and then most formally dismissed, a judgment they duly notarized. Benjamin Hart emerges with his dignity least touched, but heartbroken at such proceedings within the family. (Pp. 177-79)

Reid also acted for Benjamin and his brother Alexander. 1804 business letters from them survive in the Baby Collection at the Université de Montréal.

Commenting on this debate, the Mercury of March 7, noted,

"Since our last we have seen, in one of our weekly papers, the arguments used in the House of Assembly, against Mr. Hart. They remind us of an occurrence in France, in the time of the revolutionary troubles, though of an opposite nature. The law, in France, was, on that occasion, protected from the invasion of the populace, by a barrier of silk ribbands. -- Here, on the contrary, its invaders fortified themselves within a string of cobweb; from whence, to use a figure of Shakespeare's 'like Sin cloathed in rags, they pierced it with a pigmey's straw.'"

Beginning to wonder whether he is not going too far in his arguments, the editor of the Mercury wrote the following note in the same issue of the 29th of February.

"Our readers will find in this number a letter signed 'An Elector of Three Rivers,' which may, perhaps, by some, be thought a little intemperate; but as we cannot help viewing Mr. Hart in the light of a British subject deprived of his legitimate rights, involving a like privation of the rights of others, we could not refuse him or his friends the consolation of uniting their groans through the Mercury. No charge whatever is brought against Mr. Hart's character, as a cause of his expulsion. It is solely the result of the mode in which he has been educated, with great law authorities in his favor, nothing in our Constitutional Act appearing against him.

"We have no predilection for Mr. Hart, still less for his religion; nor is our predilection greater for any other religion which, by inculcating a too scrupulous observance of its ritual, interferes too much with the business, intercourse and harmony of civil life. But small as our veneration may be for such observers and observances, it is, in the same proportion, great for the rights of every individual in the society, whatever may be his religious prejudices or superstitions.

"Should any writer be disposed to take up the pen in justification of the Act of expulsion, the Mercury is open to fair discussion on any side of a question."

French Canadian historians have examined the stormy Craig story carefully and note that the Hart case had arisen; that prior to the negative vote "there had been a long debate in the course of which the English members, representing the commercial interests, had defended Hart's position, while the Canadian members, with Mr. Bédard at their head, had stoutly maintained that he was not capable of sitting in the assembly...certainly Sir James Craig must have been informed of these parliamentary battles. It is difficult to explain the message in which he qualified these deliberations as calm." (Chapais. Pp. 187, 191)

A mid-century Canadian historian, Charles Roger, narrates it with sarcasm -- and some imaginative flourishes:

"Mr. Ezekiel Hart appeared at the Bar of the House to take his seat for Three Rivers; Mr. Lee, the previous representative of that town, had died in the course of the previous session, and Mr. Hart had been elected to succeed him. Mr. Hart was a merchant of good standing. Of the most spotless private character, he stood in high esteem with his neighbours and fellow townsmen. But Mr. Hart was not faultless. He was, by birth, education and religion, a Jew. When he prayed, he placed the ten commandments next to his heart. In him, those devoted members of the Society of Jesus found neither a sympathiser nor a persecutor. A Christian Legislative Assembly like that of Canada, of which Sir James Craig afterwards privately expressed an opinion so ludicrously high, could not be contaminated with the presence of a Jew. By a vote of twenty-one to five, it was resolved: -- 'That Ezekiel Hart, Esquire, professing the Jewish religion, cannot take a seat, nor sit, nor vote in this House.' Ezekiel departed. The word 'baruch'

was on his tongue, the signification of which, like that of the French work 'sacré', may signify, according to the humour of the utterer, either an anathema or a blessing. The Assembly being, however, ignorant of the Hebrew tongue, Mr. Hart was not sent to gaol for breach of privilege, nor was he even required to apologize. These were the chief topics of debate, and much time was occupied with them." (The Rise of Canada, from Barbarism to Wealth and Civilization. Quebec, Peter Sinclair, 1856, vol. 1, Pp. 121-22)

In his chronicle Histoire de cinquante ans (1791-1841), annales parlementaires et politiques du Bas Canada depuis la constitution jusqu'à l'Union.(Québec, Leger Brousseau, 1869, XVI, 419 p.) T.P. Bédard refers to Hart's election and to the events of 1808,

"Mr. Hart who had taken the oath in the manner of the Jews, head covered, on the Old Testament, asked to be introduced. One of the members before whom he had been sworn gave this information to the House of Assembly which resolved to hold an inquiry into his religion. The inquiry took the form of verbal affirmation by a number of members who declared that they knew of Mr. Hart's religion; they stated he was of the Jewish religion. His rival in the election also denounced him as such. Consequently, after consulting English parliamentary law on this subject, the Assembly declared him incapable of sitting...

"The question of the eligibility of judges and of Mr. Hart engaged the attention of the legislators during a number of sessions." (Pp. 69-72)

The following year, with Joseph Tassé and Benjamin Sulte, Canadian historians began their analysis of the case which they related, as did P.G. Roy, with the eventual political emancipation of the Jews of Lower Canada.

MORE PETITIONS AND THE GOVERNOR

Governor Craig, described by historians as the longtime friend of Ezekiel Hart, showed no sign of life during the crisis experienced by his Trois-Rivières host.

So Hart petitioned him on Feb. 29, 1808 that,

"Your Petitioner is of the Jewish Religion, and a natural born Subject of his Majesty; firmly attached to his Sacred Person and Government.

"That on the 11 day of April last he was duly elected a Member to represent the Borough of Three Rivers, in Provincial Assembly of Lower Canada.

"That on the 29th day of January last, your Petitioner did duly take the Oath, as prescribed, by Statute 31st of his present Majesty Cap. 31st to qualify your Petitioner to take his Seat and Vote in the said Assembly.

"That the administration of the aforesaid Oath, is the Prerogative of the Crown and was duly administered to him by his Majesty's Commissioner, and is firmly binding and sacred on the part of your Petitioner.

"That your Petitioner further respectfully represents, that he ought not on account of his Religion be proscribed from voting and being a Member of the Assembly of Lower Canada, by the aforesaid Statute of the 31st of his present Majesty.

"That even this Privilege is extended to Foreign Jews, naturalized by the 10th of his late Majesty Cap. the 7th.

"That the said Statute is broughtinto full force in this Province, by the last clause of the 14 of his present Majesty, Cap. 83, and also by the 33d section of the 31st of his present Majesty, Cap. 31st.

"That by the 42d. section of the aforesaid last mentioned Statute, it is among other things enacted that whenever any Act shall pass the Legislative Council, and Assembly of Upper and Lower Canada, which shall create, or impose any religious disqualification, penalty, burthen or disability, shall previous to the King's assent thereto, be laid before both Houses of Parliament in Great Britain.

"That notwithstanding such positive Statute of Parliament, the house of assembly of Lower Canada did resolve, to the extreme regret of your Petitioner, on the 20th instant that your Petitioner on account of his religion cannot take his seat nor vote in the said house of assembly.

"That your Petitioner humbly presumes that the said Resolve is depriving him and all others of his Religious tenet of their natural inherent rights, which they have hitherto enjoyed in common with his Majesty's other Subjects in this Province, and operates against them, as a Bill of Religious disqualification, disability and burthen, and deprives his Majesty, the two Houses of Parliament and the Legislative Council of this Province of their rights of participation in such Acts, before going into effect.

"Therefore your Petitioner humbly prays that your Excellency will be pleased to command the said assembly to afford your Petitioner such relief and redress in the premises as your Excellency, in your wisdom may judge proper and meet.

And your Petitioner as in duty bound..."

There survives a draft copy of Hart's petition, somewhat different from the text in the Journals. The reader may find it useful for purposes of comparison with the final draft in the Hansard and with the Petition later presented -- but not accepted -- in the name of the Jewish residents of the colony. The draft in the Hart archives reads:

"To His Excellency Sir Henry James Craig,

"The petition of Ezekiel Hart of the Town of Three Rivers,

"Most respectfully represents,

"That he is of the Jewish religion and a natural born subject of His Majesty, firmly attached to his sacred person and government.

"That on the (29 January last -- crossed out) he was duly elected a member to replace the Borough of Three Rivers in provincial assembly of Lower Canada.

"That on the 29 January last he duly took the oath as presented by Stat. 31 of his present Majesty, Cap. 31 to qualify him to take his seat and vote in the said assembly.

"That the administration of the aforesaid oath is the prerogative of the Crown and was duly administered to him in customary (on the Holy Bible -- crossed out) by His Majesty's commissioner and is firmly binding and sacred in his faith.

"That even this privilege is extended to foreign Jews naturalized by 13 Geo. II Cap. 7.

"That the said Statute is brought into full force in this province by the last clause of the Quebec Bill and by the 33d section of the 31st of his present Majesty Cap. 31. Then, by the 42nd Section of the aforesaid last mentioned statute it is, among other things, enacted that wherever any act shall pass the Legislative Council and the Assembly of Upper or Lower Canada which shall enact or impose any religious penalty, burthen, disability or disqualification, that, previous to the King's assent thereto, shall be laid before both Houses of parliament of Great Britain.

"That notwithstanding such positive and declared statutes of Parliament, but against the true meaning thereof, the said assembly on the 20th instant (the said assembly -- crossed out) did (further -- crossed out) resolve that your petitioner being a Jew cannot take his seat, nor sit nor vote in the said assembly.

"That your petitioner humbly presumes that the said resolve is...(unjust -- crossed out), depriving him and others of his religion (persuasion -- crossed out) of their natural inherent right, which they have hitherto enjoyed in common with His Majesty's other subjects in this province and operates against them as a Bill of religious burthen, disability and disqualification, and deprives His Majesty, the two Houses of Parliament of Great Britain and the Legislative Council of their prevision of the right of participation in such acts, before going into effect.

"Therefore your petitioner humbly prays that your Excellency will be pleased to recommend (or demand -- crossed out) the said assembly to afford him such relief and redress in the premises as your Excellency in your wisdom may judge fit and meet." (Séminaire des Trois-Rivières Archives. Hart Papers, E.B.1)

We do have the response to Ezekiel Hart's petition. On March 14, 1808, H.W. Ryland wrote Hart,

"I have it in command from His Excellency the Governor in Chief to acquaint you, in answer to your memorial of the 29th February, that having given the subject the most mature consideration in his power, he cannot think it expedient that he should interfere with the proceedings which the House of Assembly has thought proper to adopt in your case." (P.A.C., Records of the Governor General's office, C.R. G7, G15c, vol. 13, P.99)

Prof. J.-P. Wallot notes that the governor replied to his alleged friend Hart thus negatively "through his secretary as go between. It is an attitude which smashes two historiographic myths: that of the solid friendship between the two, and that of Craig as the natural (British) defender of the oppressed." (P. 150)

March 14, 1808:

Until this point the cause of Ezekiel Hart seemed to be his own, backed as he was only by his electors. We have seen that he was also supported by a section of the colonial press which reflected the political and social interests of a part of Quebec society, and a portion of whatever public opinion of uncommitted citizenry existed in colonial Lower Canada. None of the instances of government -- not the Crown, not the Parliament, not the governor, not the Legislative Council, not the Executive Council, not the judiciary -- gave him any support.

Now we note that the Jewish group in the province recognized that they had an interest in the issue. We note in the Journal of March 14, 1808 that,

"Mr. Mure in his place, read a petition to the House, of several Jews, inhabitants of the Province of Lower-Canada, after which,

"Mr. Mure moved, seconded by Mr. Martineau,

"That the said petition be brought up.

"The House divided upon the question, and the names being called for, they were taken down as follows, vizt:

"Yeas --
Mr. Justice De Bonne, Messieurs Moore, Mondelet, Mure, Richardson, Pyke, Dumont, and Ferthelot.

"Nays --
Messieurs Taschereau, Planté, Blackwood, Bédard, Turgeon, Duchesnay, Perrault, Martineau, F. Roi, A. Roi, Caron, Roi Portelance and Fortin.

"So it passed in the negative by a majority of five." (also in Quebec Mercury of March 21, 1808)

We might note: "Several Jews, inhabitants of Lower Canada." Who were they?

In the course of the debate it was noted that they numbered some two families.

There might have been more a generation or two past. There may have been more a generation later. But at this period we can document but a few. The congregation organized in the 1770's seemed to be moribund at this time.

The very petition in question is to be found only in the Hart archives. The big issue in the Hart case was truly a matter of principle. -- Jews in principle at a time when there were practically none in Canada.

The petition was not read, and the record does not preserve the text, but a draft document exists in the Hart Archives at Three Rivers.

The document is undated, but from a reference in the text to the Assembly resolution of February 20, 1808, it is evident that it was written in March, 1808, and is a draft of the petition submitted on March 14.

Before examining the text of this draft we should note that it is unsigned, but apparently in the same handwriting as another draft petition which accompanies it in the collection, that of Ezekiel Hart. We do not, therefore, know which Jewish residents of the colony were interested in the case, or the extent of their interest.

The first petition reads,

"To the Honourable the Knights Citizens and Burgesses in the Provincial Legislature convened,

"The petition of Sundry Jews inhabitants of Lower Canada

"Respectfully represent

"That your petitioners are natural born Subjects of his Majesty, and firmly attached to his sacred person and government.

"That your petitioners have always considered themselves as possessing the same natural and coeval rights and privileges in this province with any other subject of Great Britain.

"That they have founded such rights on declared positive existing Statutes of Parliament of Great Britain in form in this domain.

"That even foreign Jews possess these rights after seven years residence in any colony of America and submitting the necessary oaths by Statute 13 George 2d. cap. 7.

"(That by the said Statute and every....thereof is still and in force in this province by the last Clauses of the Quebec Bill, and reintroduced in force in this province.) (This paragraph is crossed out in the draft.)

"That this statute of Parliament heretofore made for the Colonies of America, and any part thereof is...and in force in the province of Quebec, by the last clause of the Quebec Bill.

"That by the 33rd clause of the Canadian constitutional Statute of Parliament declares all laws which were in force under the Quebec Bill shall continue in force until voided by law.

"And further that by the constitution Canada statute, Jews are not proscribed from a seat in the Legislative Council or Assembly of Lower Canada.

"That by the 42nd clause of the said Statute, declaring that whenever any Act shall pass the Legislative Council and Assembly of Upper or Lower Canada which shall enact or impose any religious penalty, burthens, disabilities or disqualification, shall, previous to any declaration of the King's assent thereto, be laid before both Houses of Parliament in Great Britain.

"That notwithstanding such declared rights it is with (deep -- word crossed out) a lively perturbation of regret

"That your petitioners have learnt that your honorable House are averse to admit a Jew to his privilege of a seat and vote in the Assembly of Lower Canada,

"That your honorable House have declared such resolution by a resolve of your honorable House on Saturday the 20th of last month.

"That the said resolve operates as a religious disqualification against your petitioners, and it would be a truly hard and injurious case to your petitioners, if suffered any longer to remain in force in your Honorable House, without going through a regular course of sanction in this the other branches of the legislature as prescribed by the 42nd clause of the said statute.

"That your petitioners (are extremely anxious to learn if His Majesty has allowed -- crossed out) flatter themselves that His Majesty and Parliament have no reason or cause to dismiss your petitioners of their inherent rights hitherto enjoyed by them in common with all his other subjects (of any religion, class or denomination. -- crossed out).

"Wherefore your petitioners pray that a Bill may be brought into your Honorable House expressive or declaratory of the (rights to sit and vote in your honorable -- crossed out) disqualification of the resolution of your Honorable House (that Jews are not eligible to sit and vote in the Assembly of Lower Canada -- crossed out)." (Hart Papers, E-B-1)

In his nearly contemporary accounts of the political events of the time, Robert Christie's Memoirs of the Administration of Sir James Henry Craig, and Sir George Prevost, in the Province of Lower-Canada, from the Autumn of 1807, until the Spring of 1815 (Quebec, 1818), note that a judge had been elected to the 1808 Assembly.

As Christie tells it (pp. 271-74):

"The return of Mr. Hart, for the town of Three Rivers, as mentioned in the preceding chapter, was also taken up, and less tolerant with respect to that gentleman than towards the judges, probably because less to be feared, his seat was vacated; it being resolved (21 to 5) 'that Ezekiel Hart, esquire, professing the Jewish religion, cannot take a seat, nor sit nor vote in this house.' Mr. Hart's constituency, with becoming spirit re-elected him.

"Much of the session was taken up in the discussion of these matters."

Yet, "The business of the session being over the governor prorogued it on the 14th April with the following discourse...

"'It gives me no small satisfaction to observe, and I do it with every acknowledgement that is so justly due to you on the occasion, that the diligence with which you have pursued, and the temper and moderation with which you have concurred in, the several objects that have been the subjects of your deliberations; by the dispatch that they have enabled you to give to public business leave no room to regret that a termination of your labours should be called for. The readiness with which you have renewed the acts that have been judged expedient for the further security

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"'You have, gentlemen, ably and diligently discharged (your) duty.'"

Thirteen days after this prorogation, on Apr. 27, 1808, the fourth parliament was dissolved and elections were ordered. (Desjardins, P.12)

ELECTED AGAIN

The Assembly having been dissolved, the citizenry went to the polls again on May 17, 1808. In Trois-Rivières Joseph Badeaux and E. Hart were elected, Badeaux with 67 votes and Hart with 59, one less than during the previous vote.

The indenture exists "made the Seventeenth day of May, in the Year of Our Lord One thousand Eight hundred and Eight and in the forty eighth year of the Reign of our Sovereign Lord George the third, of the United Kingdom of Great Britain and Ireland, King, Defender of the faith &c. Between Louis Gugy, Esquire, Returning Officer of the Borough of Three Rivers in the province of Lower Canada on the one part, and John Antrobus, Amable Berthelot, and Ross Cuthbert, Esquires of the other part, Witnesseth that agreeable to his Majesty's writ, bearing date the thirtieth day of April last, after proclamation thereof being made according to law, We the said John Antrobus, Amable Berthelot and Ross Cuthbert, Esquires Elector of the said province and Borough, upon the place d'Armes in the said Borough in full Assembly, have chosen Joseph Badeaux and Ezekiel Hart Esquires as Members to serve for the said Borough in the Assembly of this province to be held the Eighteenth day of June next, at Quebec; and by these present We have and do give to the said Joseph Badeaux and Ezekiel Hart, Esqires Ample and sufficient power for Us, and in the Commons of the said Borough distinct from Us, to make and consent to such matters as in the said Assembly by the Common Council of the said province shall be by the favour of God ordained. In Witness whereof each of the said parties have interchangeably set their hands and Seals to these presents, the day and year above written," signed by John Antrobus, G. Berthelot, and Ross Cuthbert, and countersigned by L. Gugy. (McCord Museum)

A hostile report of the election appeared in Le Canadien of May 21, 1808; dated May 17,

"The election of members for this borough ended this morning, the most contested in Trois-Rivières. Before the voting each of the opposing parties had made the greatest possible effort.

"State of the poll:

Jospeh Badeaux	67
Ezekiel Hart	58
Pierre Vezina	46
The Hon. L. Charles Foucher, Judge of the King's Bench and Provincial Judge	33

"Consequently, Messers Badeaux and Hart were declared duly elected. It might be noted that the defeated candidate had led a complaint against the conduct of the regiment in recruiting. People were very excited about it. After a solemn inquiry ordered by His Excellency, the complaint was found to have no foundation and most of those who had signed it recognized that they had been misled. Many found that the complaint was not loyal and therefore opposed the last two candidates.

"The Members were carried in triumph by the entire city, accompanied by the band and a large part of the regiment. The repeated acclamations of the people are evidently a sign of its loyalty."

Election results also appeared in the Quebec Gazette of May 19 and 26, 1808.

We have a report of the event in the Quebec Mercury of May 23, dated at

"Three Rivers, May 18, 1808.

"On Monday last the election, for two members to represent this borough, in the ensuing Parliament, took place, when at the final close of the Poll, the next morning, the numbers were as follows --

"J. Badeaux	67	E. Hart	59
L.C. Foucher	32	Vesina	46

"When the two first gentlemen were declared duly elected. After which nearly the whole of the Canadian Regiment, in garrison here, with the whole band of music, unexpectedly marched to the Court House, and carried the new elected Members on their shoulders through every street in town, to their respective houses, into which they were invited and regaled. They then proceeded with the successful candidates, carried as before, to the market place, and placed them on the top of two hogsheads of strong ale. When the tune of God save great George was played by the whole band, with a hearty three times three, Mr. Hart then drank to our Gracious Monarch's health and long life, and success and augmentation to the King's Canadian Regiment, and thanks to them for their uniform good conduct, during the long period

they have been quartered here. The two members were then marched to the barracks, where another hogshead of ale was given to those left on guard, the women and children. Most of the public houses in town were opened to regale the voters; both military and civil were entertained with a plenteous supply of every thing. Not the least confusion or noise took place. The former retired to their barracks in peace and good order, and the latter did the same to their respective homes. Indeed, the conduct of this new raised corps has always been conspicuous for their good order and honest conduct, ever since they have been among us, notwithstanding any malevolent animadversions lately made against them to the contrary."

Audet and Surveyer say that these elections were even more active and effervescent than those a year earlier.

Sulte described the election,

"The opposition found a fundamental argument, something like a constitutional principle for example, to keep the elected candidate, a friend of Gov. Craig since their youth, from the Assembly. The Coffin-Bell opposition based its actions on the theme that a Jew cannot be part of an Assembly of Christians.

"As it was clear that Mr. Hart would be one more Member on the side of the government, Le Canadien, the weekly of the patriots, served as the medium for these, while the Mercury, interpreted the feelings of the oligarchic party, defended Mr. Hart.

"The position of his friends and enemies could not fail but be exceptional; he had been elected by a French-Canadian majority, and Le Canadien warred against him. The Coffin party was very distinctly bureaucratic; nevertheless it saw the Mercury, palace newspaper, turn against it.

"The reports published on the campaign in the newspapers during the two following years are an interesting reflection of the local spirit and of the passions that agitated the city. Le Canadien made him into a tyrant, a shaver,and claimed that he had seized the mandate by terror and other illicit means."

"'We have seen in this election ten people utterly ruined to despair by the fortunate.'

"'A minister of the religion of the Prince (Mr. Short) has voted for him?'

"'With all this Mr. Hart could barely find three electors who were able to read to certify his election. Finally he found a drunken usher, a school teacher without pupils and a cobbler out of work.' Of course I cite these items as of historical interest. Newspaper articles are not articles of faith.

"The Mercury replied bluntly, invoking historical texts, to prove that Jews have the right to sit in parliament, all the while praising the enterprise and integrity of Mr. Hart. It is an astonishing fact about a man who had handled government money; yet no one appeared to accuse him of fraud or the abuse of confidence.

"Then, to crown the debate, Ezekiel Hart was named agent of the Mercury at Trois Rivières...and Governor Craig placed an embargo on copies of the Canadien addressed to subscribers in that city." (Also in F. Surveyer and F.J. Audet. Les Députés de Saint-Maurice et de Buckinghamshire, 1792 à 1808. Trois Rivières, 1934, and in their Les Députés au premier parlement de Bas Canada, 1792-96, vol. 1, Montreal, Editions des dix, 1946. Pp. 78-84)

Coffin, adversary of Hart during the preceding months, chose to run instead at neighbouring St.-Maurice and was elected there.

Judge Foucher came in last of the four candidates. Sulte says that he was defeated because his conduct as judge had become intolerable. After this defeat at the polls he retired from politics to be named judge of the Court of the King's Bench in Montreal in 1812.

"Notary Joseph Badeaux was of an old, highly regarded Trois Rivières family. His father had written a journal from 1775-76 which La Revue Canadienne published in April and May, 1869 but which the Societé historique de Montréal has reedited much better. The son was also a fervent 'royalist' or chouayen to use a popular expression of the time, which give him a double advantage for he was able to replace Mr. Foucher in this city where the bureaucratic party was so powerful, Mr. Foucher having become intolerable for the people because of his manner in his capacity as judge."

Sulte wrote of Judge L.C. Foucher,

"He had represented Montreal East from 1796 to 1800, then York County from 1800 to 1804 where he had been elected unanimously: this had also happened at Trois-Rivières in the place of Judge De Bonne who had this year got himself chosen at Quebec. We have seen Foucher as adversary of his colleague Hart. They soon found themselves face to face in the Parliament, in similar positions, for if Hart was a Jew, Foucher was a judge, both indelible stains in the eyes of the majority of Members...

"Pierre Vézina, member of an old Quebec family established at Trois-Rivières, was elected at Trois-Rivières in 1816, together with Mr. Ogden.

"By naming Hart and Badeaux, the city of Trois-Rivières remained politically in the same position which it had created earlier, and sent the ball back to the House of Assembly which did not want its Jewish member.

"Also nothing was lacking from showing the joy of the victorious candidates. The Regiment of the Fencibles marched out, led by its band, to escort the two elected members to the courthouse, and then to each of their homes where set tables awaited them... After the feast they all went to the market place where the two members in turn mounted a beer barrel with its top open and addressed the crowd. There was an enormous quantity of beer drunk; the procession proceeded to the barracks. Mr. Hart gave the wives and children of the soldiers a full barrel of his famous beer; then the taverns were open the entire day at the expense of the new Members; nor was there the slightest disorder to be seen. Those who took part in this merriment long remembered it.

"In order to understand the behaviour of the soldiers this day we need to note something about the organization of this troop.

"The Canadian Fencible Regiment had first been raised in Scotland and consisted of about a thousand men; but when the order to embark for Canada was given the majority peremptorily refused to leave because they had never believed that they would be called on to leave their country. The officers, sergeants and corporals arrived alone in Canada and set to work to recruit soldiers. In 1808, after three years of effort, they had some 500 men under their command, mostly French Canadians and some Yankees. The officers were largely Scots. Lambert still says that the French Canadians make quite good soldiers, but that the Yankees are a pack of drunkards who keep their officers on the alert by their frequent desertions.

"The Fencibles--soldiers, officers and commandant Col. Shank -- were generally popular with the Trifluvians. Not only were they composed of countrymen, but they had behaved admirably at the time of the fire in the Ursuline convent in 1806. There was no end to the addresses of congratulations or to the fine dinners for them. The headquarters of the regiment was at Trois-Rivières.

"Nevertheless, on the other side of the medal there had been an untoward sign in 1807. A complaint had been lodged with the authorities against their conduct in recruiting. Judge Foucher, colonel of the militia, and Mr. Pierre Vésina, also a militia officer, headed the petition. The complaint was rejected as unfounded after a solemn inquiry carried out on the order of His Excellency. This affair created a great sensation in the city; most of those who signed the petition regretted doing so and were angry at Foucher and Vésina.

"The enthusiasm of the Fencibles for the victorious candidates can be fully explained, since the two defeated men were the very adversaries of their regiment." (Also in A. Tessier. Trois-Rivières, 1535-1935. P. 142)

We are fortunate to have a letter from Ezekiel Hart to Messrs. Jones Phillips & Sons dated May 26, 1808 which gives his full report on the situation to that date:

"I duly rec'd your favor of the 7 Oct. last. I most sincerely thank you for the punctuality in forwarding me the opinion of your Att'y Gen'l. Sir V. Gibbs, which is so positive in my favor. I have not replied before as wished much to give you a favorable Acct. of my having met with no opposition to taking a Seat in the Legislature, of which I have not the least doubt as to the eligibility. I am sorry to say to you that has not been the case, having not been admitted. Last Jan. 7 the Sessions began when the Oath was administered to me according to the wishes of the Commiss'rs, but notwith'g which, opposition was instantly made to my admittance & taking my seat, but which was warmly contested by many for several days, & was ultimately carried against me by a very small majority of 6 or 7 that, it appearing to the House my being a Jew, I cannot sit or vote in said House of Assembly. The most independent Members were actuated with a full persuasion as to my Eligibility and Legal Rights. They produced many Statutes since Edward III in our favor, independent of which they also produced the opinion of the now Lord Chancellor which for your information is herein inclosed. I also inclose you the opinion of Mr. Reid, one of the Judges of the King's Bench universally known for his eminent knowledge of the Laws. I was sorry to observe amongst those opposed to me was Mr. Sewell, our Att'y General; the rest were all Catholicks who, I suppose, were led on by the pre-

eminence of their Priests out of Doors. The motion against me was brought up by a Mr. Foucher, the only resident Judge of this place. I cannot learn any precedent or law was produced by them. I am convinced hardly a man in this Province but what is fully convinced of the illegal treatment I have rec'd. I thought it proper to address the Gov'r General a Petition, copy of which I inclose with his reply, presuming from the known sentiments of the Members, the least interference from him would have been attended with every success. All the Protestants in the House with several Catholic members voted for my case. The Gov'r Gen'l about 4 weeks past dissolved the Legislature, & in consequence a new Election throughout the province is now taking place for 4 years for this Town; it is just finished. I may say, in a manner unsolicited, the Town has re-Elected me & have even added; out of the 5 Candidates offered, Elected the one mostly my friend joined to serve, as this place sends 2 Members to the P. Parliament. Mr. Justice Foucher, my severe opponent, having not got 1/2 the number of votes I was honored with, altho' every exertion in their power were made against me. 3/4 of my voters were Catholicks & of which religion were all my opponents; & this Town at no former Election evinced so much joy as they did on the present occasion, even the Reg. stationed here by every demonstration wholly joined the citizens,my friends on the occasion. The Constitution admits of no disability but by an Act, even if for crimes, and this House was obliged to pass such against a Member who had been convicted in a Court of Justice. They have acted on against me by a Resolve only. A Petition was last winter sent to the House signed by those of our persuasion praying for their Legal rights -- even its entrance was likewise opposed by the same party. -- I have my doubts and do think that a like opposition will rise against my taking the Seat when the Sessions meet if the Executive will not use their influence. I thank you for your attention & instantly wrote to Messrs. Bainbridge and Brown to pay you the amount."

The Journals of the Assembly carry the Returns of the Writs for the election of Members in the Provincial Parliament dated at Quebec, July 18, 1808 by the Clerk of the Crown in Chancery, Herman W. Ryland, addressed to Mr. Samuel Phillips, Clerk of the House of Assembly, to the effect that the Borough of Three Rivers has elected Joseph Badeaux and Ezekiel Hart as its representatives; Lewis Gugy, returning officer.

A letter from Quebec County signed by "L'Infortunée Janette" in Le Canadien of May 21, 1808 indicates something about Hart, De Bonne and Trois-Rivières. She commented on the county having Judge De Bonne as candidate (in point of fact, a week later, as its member) for the assembly.

"The perfidious man could only be elected at Trois-Rivières, where they had elected a Jew who has since been ejected from the Assembly together with him last winter. What honour would it be for you to elect him? The Upper Town rejected him contemptuously four years ago. Dechambault had driven him out. Nicolet chased him away." (May 21, 1808)

For a second time Hart had to wait nearly a year after his election to come to the House of Legislature. The fifth parliament, which came into existence formally on June 18, 1809 did not meet until Apr. 10, 1809. (Desjardins, P.12)

Clearly "incidental" references to Jews are sometimes indicative of climate, sometimes of opinion -- always of interest to the subject.

We note a "Jewish" joke in Le Canadien of May 28, 1808:

"A Jew and a Christian were chatting at the edge of a well late one Friday evening, when the Jew fell into the water, without causing any grave injury. The Christian ran to get a ladder, but as he was climbing in to rescue his friend the Jew told him to spare his efforts. 'This is Saturday and I will not climb the ladder this holy day of rest.'

"So he remained in the well, with cold water up to his chin the entire night and the following day. When his friend came to see him on Sunday morning, the Jew chilled to the marrow called, 'The ladder, for the love of God, bring me the ladder.'

"'God forbid,' the Christian answered. 'This is Sunday, my day of rest.'

Le Courier illustrated a point it was making about a lawyer who had recourse to the Jewish tradition of beginning the 24-hour day cycle with the setting of the sun. Le Canadien of April 23, 1808 countered with a long analysis of this "Jewish" joke to prove that the author had failed to retain the fidelity or the premise of the situation.

"What do you think, Mr. Editor, about considering the day beginning with the setting of the sun? I know that the Jews, and many other peoples, count the day from one sunset to the other. I know that we differ in this matter from them and from some other peoples. Are we more reasonable in this matter? I believe that the question is of no importance and too arbitrary to make it the subject of reproach of a nation."

The Mercury carries another "filler":

"Eve. -- The Jewish doctors have a fable concerning the etymology of the word Eve, which one would sometimes be tempted to think was realised in some women. Eve, say they, comes from a word which signifies to talk, and she was so called, because soon after the creation there fell twelve baskets full of chit chat, and she picked up nine of them while her husband gathered the other three." (July 11, 1808)

(Our readers who have Yiddish will recall the still current idiom that a woman possesses nine measures of talk.)

The Mercury with balanced journalism reported at length the elopement of a Jewish youth with the daughter of a tavern keeper (Sept. 26, 1808),

"A few days ago, a young Jew, whose father was formerly an inhabitant of this place, arrived from Three Rivers, and continued hanging about the town, at different taverns, particularly at one _____'s, whose step daughter's affection the young Israelite contrived to win, and with whom he eloped on Saturday evening last.

"About 10 o'clock he left Mr. Daniel Dorge's Tavern, where he lodged, observing that, as it was not late, he would take a little tour, and accordingly went out, and contrived to get a valuable horse of Mr. D's from the stable. He then attempted several yards for a calèche; and at Mr. Grant's narrowly escaped detection. He, however, persevered and found one in Mr. Bramley's Brewhouse Yard; in which the fond couple made off; and lest the roads might prove bad, or wishing to be quite a cavalier, the amorous hero borrowed a saddle from the stable of the commanding officer. The young lady was not behind hand in her contributions to this Pic Nic arrangement, purloining from her father a handsome plated harness and one hundred and fifty rusty dollars, long the useless tenants of the old step-sire's iron chest, who now exclaims with Shylock,

"'Would she were hearsed at my foot and my dollars in her coffin.'

"Pursuit was made after them early on Sunday morning, hitherto without success; indeed it is to be presumed they had more than the wings of love to aid their flight. For, although stealing a girl may pass for a frolic, neither the Mosaic or criminal code allow of stealing a horse.

"Their escape is a little singular as they attempted the ferry in front of St. Germain's House, but could not awaken the ferryman who lives on the opposite side of the Richelieu, and afterwards mistook the road to St. Ours."

This newspaper also carried a long report of the new laws instituted in France in regard to the Jews (June 13, 1808) and two long and sympathetic reports from England about the suicide of a distinguished Jewish merchant, Benjamin Goldsmid. (Aug. 1 and 8, 1808)

POLITICAL MOTIVATION

To this day the Hart case evokes keen attention. The story of Hart's expulsion is often told as a Jewish triumph with emphasis upon Hart's election. Every historian gives his party the credit for its success, and blames those he opposes for braking the progress of virtue. It has been told as proof that French-Canadians elected a Jew, that Liberals fought for the universal franchise, that revolutionaries battled the establishment, that Conservatives always emerged as champions of the broadest freedoms. Unfortunately, the record does not confirm any of these latter day superimpositions of newer patterns upon the older welter of fact.

If anything is clear, it is that Hart was elected, expelled, and that by the overwhelming majority which included opposing groups and interests. So few were with him -- we do not even know whether any Jew aside from his brother Benjamin was with Ezekiel -- that we can reduce our magnification to the order of the personal.

For an understanding of the Hart episode the reader needs to clarify the fundamental questions in regard to the situation. Was it a conflict between anti-Semite and Jew? Was it a conflict between French-Canadian natives and first settlers in the colony against the Saxon conquerors and new settlers? Was it the controversy between the authority of London vs. the dominating power of the colony's economic and political society vs. the condition of the French-Canadian population? Was it the political and constitutional struggle between the existing structure of government and authority vs. reform in the direction of democratic responsibility through a ministerial and parliamentary system? Was the incident a skirmish in the long continuing battle to establish the "national" validity of the French-Canadian group?

Of course, in a sense it was unquestionably all of these issues. But which was central, predominating?

The reader will examine the documents and the established facts to reach her own conclusion.

Most Jewish historians have viewed the Hart incident as an example of anti-Jewish prejudice acting to limit the political rights of Jews in the colony. By and large French-Canadian historians regret to find the Jew not inevitably involved in the conflict against the anglophone oligarchy, and believe that the anti-Jewish argument was an instrument utilized by the reformist and nationalistic group.

Delagrave saw the Hart conflict as a manifestation of "the wall of prejudice raised between the Anglo-Protestant population and the French-Canadian people. In the churches the Christian who was not a Catholic was the equal of a pagan. Furthermore, the difference in language was a guarantee of non-communication. There might even have been a religious foundation for the violent conflicts which the Assembly witnessed, since the Irish Catholics were most often on the side of the French Canadians. This spirit of intolerance was also patent when the majority opposed the presence of a Jew in parliament. This in spite of the reiterated desire of a minority of the francophone people." (P. 244)

Helen Taft Manning wrote in her The Revolt of French Canada, 1800-1835, A Chapter in the History of the British Commonwealth. Toronto, Macmillan, 1962. Pp. 83-85,

"Ezekiel Hart was the son of Aaron Hart, a Jewish merchant and money lender of Three Rivers. Hart's religion was made the excuse for excluding him from his seat, but his unpopularity was probably chiefly due to the feeling that British merchants and land speculators controlled matters in Three Rivers even more completely than in Montreal, and that Hart was the administration candidate..."

The Quebec historian was anticipating her colleague of 1976.

Fernand Ouellet, in his Le Bas Canada, 1791-1840 (Ottawa, Les Editions de l'Université d'Ottawa, 1976. P.138) commented, "a hardening of attitudes which finds expression in demagoguery is evident in the Hart case.

"Ezekiel Hart, Jew of Trois-Rivières, is elected a member under the colours of the Briton Party. He is a merchant, and of the Hebraic religion. In England the upholders of this religion, as well as Catholics, cannot sit in the House of Commons.

On the other hand, the constitution of Lower Canada of 1791 contains no clause discriminatory against Jews, and that is why Hart courts the electors of Trois-Rivières for their votes.

"Nevertheless the election of Hart raises a storm which would last for several years. The majority which dominated the Legislative Assembly, which professed to liberalism, did not hesitate to invoke the British tradition to drive Hart from the House, contrary to the expressed wishes of the electors. On this occasion religious prejudices and a virulent enough racism inspired the debates of the members.

"The Canadian Party again succeeded in putting itself on a solid enough legal ground, but adopted a dangerous attitude if we consider the acquired rights of the Catholics of Lower Canada. It is astonishing that it is Governor Craig who defends the only constitutional interpretation which can guarantee the political rights of the Jews, and in consequence of the Catholics. In all this, what happened to the Protestant conspiracy against the Catholics?"

Sulte concludes his analysis in "Les Miettes de l'Hisoire": "In all probability, but for his attachment to the oligarchic party, Mr. Hart would not have met opposition from the majority in the chamber on the basis of his Jewish origin."

Writing about the same time in La Revue Canadienne, P. 410, Joseph Tassé makes a similar analysis,

"Mr. Hart was naturally associated with the English party...It is not surprising that in the excitement of the struggles the members of our origin followed their passions and seized the opportunity to humiliate their adversaries by expelling one of their members. They performed an act of reprisal and at the same time drove from the arena a man whose vote would always be opposed to theirs. Under other circumstances it is not more likely that the French deputies would have insisted on getting rid of Mr. Hart because he was a Jew than they would have attempted to expel Judges de Bonne and Foucher had these gentlemen remained faithful to the national party."

Many years later Olivar Asselin, editor of Le Canada addressed the Women's Liberal Club of Montreal at the Reform Club on this subject and gave it as his view that the expulsion of Hart had little to do with his Jewish faith, "for our ancestors bothered little with such things. It came about, rather, because he was the intimate friend of Governor Craig who was the bête noire of the Canadiens."

Pagnuelo recalls that French Canadians had driven Hart from the Assembly Chamber because he was of the Jewish faith. His electors retained their confidence in him and re-elected him several times during the following years, but to no avail. The Assembly had sought to exclude judges, but failed because of the opposition of the government and its echo, the Legislative Council; so the Assembly avenged itself on Mr. Hart. We saw then for what may be the only time in our history -- French Canadians persecuting a religious sect, with the government acting as the indignant defender of the victim.

But in 1827 the parties returned to their natural roles. (Pp. 258-59)

As Audet and Surveyer see it: "Hart made a faux pas on entering the Assembly. He placed himself with the English minority. The Mercury was grateful to him for this and published commendatory articles about him and his family. It took no more than this for Le Canadien to give him battle, and a strange development took form: The Canadien journal opposed the man chosen by the Canadiens, while the English paper praised Mr. Coffin's adversary." (Les Députies des Trois-Rivières, 1792-1808. P.81)

From the political humour of the time: Le Canadien made "a ministerial classification of the dismissed parliament," an evaluation of the members of the Assembly in the supposed judgment of the administration. The members of the Assembly are divided as 1) models of good judgment; they alone fought the bill on the judges against all others; 2) Some among them who...pass as good subjects (who have truly manifested your attachment to His Majesty's government); Bad subjects ('I had the right to expect this procedure from you...because it would have provided assured testimony of the loyalty...you profess'). Of these, 3) not too respectful, rather stubborn, and 4) incurable, incorrigible." Hart is classified in the 2nd category. (Oct. 9, 1809) After the fall, 1809 election Le Canadien published the same table of "good subjects, bad subjects" and new members, showing the electoral slaughter of those favoured by the governor and the victory of those proscribed. (Nov. 18, 1809, P.220)

Sulte analyses the political alignment within the social situation more vividly even than later students. It was so simple English vs. French-Canadian conflict, for Hart had been elected by French-Canadian voters, and his persistent opponents were not only Bédard and his Canadiens but Coffin and Bell.

Joseph Ménard, editor of the anti-Semitic Le Patriote, disagreed holding that it was only the Jews and their friends who were minimizing the clear intent of the earlier generations to deprive Jews in the colony of the rights of equal citizenship. (May 30, 1935)

We should note that expulsions of elected members of the assembly, as well as virtual impeachment of judges, was a very common practice in the parliament of those decades and occupied much of the legislators' attention. It was a recognized political procedure, and the arguments called upon were often ad hoc, and not deriving from abstract conviction of constitutional principle.

Christie recalls the proceedings of these days against Judge De Bonne and against Hart. "The exclusion of Mr. Hart, was more closely prosecuted: the house renewed the resolution which had been taken against his admittance to sit and vote in the last session of the preceding parliament; and a bill to disqualify Jews from being eligible to a seat in the House of Assembly was introduced and underwent two readings. The lapse of five weeks in the prosecution of these measures exhausted the patience of the governor, whose military education and habits may, on this occasion, have influenced him. The perseverance of a deliberate body in a favorite, but unconstitutional, measure appeared to him no better probably than the refractory spirit of an undisciplined corps of recruits, and he seemed determined to crush it.

"On the 15th of May, he went down in state from the castle, to the Legislative Council, where, having summoned into his presence, the assembly, after giving the royal assent to such bills as were ready, (five in number) he informed them of his intention of dissolving the present parliament, and of recurring to the sense of the people."

The politician-chronicler was the first to relate the events of 1807-9 to those of 1832. He noted that the vote against Hart, "this most arbitrary and absurd measure was subsequently obliterated by an act (Will. IV., ch. 57) of the legislature of Lower Canada, tantamount to the amende honorable, declaring all persons professing the Jewish religion, being natural born British subjects, residing in this Province, entitled to the full rights and privileges of other subjects of His Majesty. Mr. Hart who died

in 1843 lived long enough to see this act of legislative justice done to those of his religious faith, some of the same individuals concurring in the measure who had before disqualified him, most absurdly for it -- This is progress from bigotry and intolerance to at least justice, not to say liberality, for there was no liberality in yielding to a British born subject and in a British colony, his birthright." (vol. 1, Pp. 282-83)

As Robert Christie told the story in his 1818 Memoirs of the Administration of the Colonial Government of Lower Canada.

"The House...resumed with warmth, the question concerning the Judge and the Jew (these Gentlemen had been re-elected in the late Elections). The more determined members were for expelling them by resolution, but a motion for the expulsion of the Judge in this mode, was negatived by a considerable majority, part of whom, though disposed to disqualify Judges from being eligible to a seat in the House, were averse to the means proposed, insisting that nothing less than an Act of the Legislature could operate such a disqualification. Others, strongly urged that the Electors were, and of right ought to be, the sole constitutional judges of the competence of their delegate, and that his expulsion under any form, would amount to a gross violation of the most sacred rights of the people, and be an act of arbitrary power incompatible with the freedom of the Constitution. This effort having failed, a committee was appointed to enquire into, and report to the House, the inconvenience resulting from the election of Judges to sit in the House of Assembly, and in the meantime, a disqualifying bill was introduced and read for the first time. The enquiry was carried on with perseverance, and proved rather to the disadvantage of the individual concerned, for which reason we refrain from any reflections on the subject. The exclusion of the Jew was more closely prosecuted. The House renewed the resolution which had been taken against his admittance to sit and vote in the last session of the preceding Parliament, and a Bill to disqualify Jews from being eligible to a seat in the House of Assembly was introduced, and underwent two readings. The lapse of five weeks in the prosecution of these measures exhausted the patience of the Governor, whose military education and habits, may on this occasion have influenced his better judgment. The spirited perseverence of a deliberative body in a favorite measure, appeared to him like the refractory spirit of a body of soldiers, which he seemed determined to crush."

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In our own century Gerald M. Craig writes of the Hart case, "This episode is usually set forth as an early example of intolerance and discrimination, but it is probably more correct to see it in the larger perspective of economic conflict, since the majority in the Assembly objected to Hart at least as much because he represented English-speaking mercantile interests as because he was a Jew." ("The Canadian Setting" in Albert Rose, ed., A People and Its Faith. Toronto, University of Toronto Press, 1959. P.5)

Denis Vaugeois considers the Hart case a phase of the conflict between the governor and the assembly.

"Very quickly the governor and the assembly met in opposition. There was first the incident of the Trifluvian Jew Ezekiel Hart whom the assemblymen refused permission to sit in the House. The latter is an English Jew, and the French-Canadian deputation sought a pretext to exclude him from the assembly. They seized upon his oath. This procedure touched Craig personally, for he was a friend of the family...

"Elections took place in 1808. The new assembly had to deal anew with Hart and de Bonne. Measures similar to the first were taken." (L'Union des deux Canadas, Nouvelle conquête? Trois-Rivières, Edition du Bien public, 1962. P.33)

We continue with McArthur's analysis of the Hart case:

The French Canadian "group in the House of Assembly naturally sought to champion some scheme of government which would commend itself to the public and add to its prestige as a party. The election of judges to the assembly had been the occasion for very manifest abuses of the power of the bench, and the French-Canadian party undertook to bring about the disqualification of the judges. A bill for this purpose was introduced and passed the assembly, but was defeated in the council, which contained several of the judges and was prepared to protect the privileges of the bench. The election of Ezekiel Hart, a Jew, for the borough of Three Rivers afforded another opportunity for the popular party to display its skill. Jews were not excluded from the house by the terms of the Constitutional Act, yet the oath which that statute required could not be taken in the regular manner by a consistent Hebrew. By questioning the validity of his election Hart, who was in sympathy with the commercial interests, would be placed in a very embarrassing position. The subject was accordingly brought forward, and Hart's seat was declared vacant." (Duncan McArthur in Canada and its Provinces, edited by A. Shortt and A.G. Doughty. Toronto, Glasgow, Brook & Co., 1914, vol. 3, Pp. 159-61)

Jean-Pierre Wallot, in his close analysis of Québec qui bouge, trame socio-politique du Québec au tournant du XIXe siècle, calls the expulsion "Political opportunism -- Hart had allied himself with the British -- anti-Semitism and legalism had combined in this decision. In any case, some Canadians had defended Hart, while some Britishers, among them Sewell, then attorney-general and soon to be chief justice (August, 1808), had supported the resolution. In spite of Hart's petition to him, the governor refused to intervene." (Québec, Editions du Boréal express. Pp. 149-50)

The controversy, when it arose, was not along racial or religious lines. As Wallot points out,

"In point of fact, Canadiens defended Hart at certain moments: De Bonne, Mondelet, De Salaberry, Dumont, and sometimes Berthelot himself. On the other hand, Attorney-General Sewell and possibly Blackwood, five Britishers, argued that practising Jews cannot conform to the wording of the oath set by the constitutional law of 1791; that consequently they excluded themselves from the Assembly even if theoretically they could court the voters and secure election." (P. 114)

Jean-Pierre Wallot discusses the relationships at the time,

"A part of the French Canadian élite seems to have nourished a somewhat puerile anti-Semitism, hardened by a 'legalism' inherited from British anti-Semitism. But when, one fine day, it found expression, it was allied closely with French-Canadian political interests.

"Aside from this conjunction on the level of the ruling class, we often disregard the real sentiments of the people. They elected Hart several times. But in many cases, they were indebted to Hart, and they voted by show of hands then." ("Les Canadiens français et les Juifs, 1808-9: L'Affaire Hart," in Juifs et Canadiens, deuxième cahier du Cercle juif de langue française, ouvrage publié sous la direction de Naim Kattan, Montréal, Editions du jour, 1967. Pp. 111-21)