

# Not Written in Stone

**Jews, Constitutions,  
and Constitutionalism  
in Canada**

**RELIGIONS AND BELIEFS**

**Edited by  
Daniel J. Elazar,  
Michael Brown, and  
Ira Robinson**

**University of Ottawa Press**

# NOT WRITTEN IN STONE

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# **Not Written in Stone: Jews, Constitutions, and Constitutionalism in Canada**

DANIEL J. ELAZAR, MICHAEL BROWN, and  
IRA ROBINSON, Editors

University of Ottawa Press



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# In Memoriam: Daniel J. Elazar

As noted in the foreword, this volume was conceived and edited by three people. Unfortunately, one, Daniel Elazar, has not lived to see its publication. His two collaborators on this project dedicate it to his memory.

Dan was a cherished and close friend and mentor. An intellectual with a prodigious range, his publication record was nothing less than staggering. He was an academic pioneer who rekindled interest in both federalism and the Jewish political tradition and established the new field of Jewish Political Studies. Unlike many scholars, he was *engagé* – a man of action. He was intimately involved in the activities of the Jewish community and with affairs of state in Israel and the United States, and he acted as a consultant to governments around the world, including the government of Canada.

Such a record would have been a credit to anyone. Remarkably, Dan accomplished all this with a severe physical handicap. While participating in a youth programme in Israel, he was stricken with polio. His courage and determination in the face of adversity were inspiring. He traveled to the ends of the earth to teach, to attend conferences, and to consult, never giving in to his physical limitations. He possessed a keen wit and an uncommon love of good fellowship. Family and friends were welcome at the Elazar table at all times; the conversation was always animated and stimulating, with Dan at the centre.

As a colleague and friend, Dan is much missed. Knowing him was a privilege. May his memory be for a blessing.

MICHAEL BROWN AND IRA ROBINSON

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# Foreword: How This Book Came to Be

The constitutional documents of organized Canadian Jewry appear, on the surface, to be a very narrow focus for a book. In fact, however, the Canadian Jewish community is today the fourth largest in the Diaspora and a key player in world Jewish affairs. Studying Canadian Jewish organizations requires, moreover, an examination of the community in itself and as a part of several broader frameworks: Canadian and North American society; the contemporary Jewish world; the historical Jewish experience. As well, constitutions reflect the basic norms and values of institutions. This book was conceived as part of a wide-ranging research project under the aegis of the Jerusalem Center for Public Affairs designed to compare documents from all over the modern Jewish world. One purpose of the project was to gain a sense of the extent to which Jews have adhered to their own political traditions. Of equal interest was the degree to which Jewish political organization has been a product of particular times and places. A third question for study was what influence Jews have had on Canadian constitutional issues. The first published book to emerge from the macro-study presents evidence from the United States.<sup>1</sup> This book is the second volume. Studies of other communities are in progress.

Professor Daniel Elazar, the late president of the Jerusalem Center, asked the other two editors, Michael Brown and Ira Robinson, to assume responsibility for the Canadian aspects of the project, because they had been engaged in the study of the Canadian Jewish community and were associated with the work of the Jerusalem Center. They agreed to collaborate, because they believed in the intrinsic worth of the general project and saw in it an opportunity to readdress from this unique perspective the key issue of the institutional structure of Cana-



dian Jewry.<sup>2</sup> The editors began by assembling a wide variety of documents from different kinds of organizations across the country. Their work has been facilitated by a generous grant from the Ministry of Multiculturalism (now the Department of Canadian Heritage) of the Government of Canada, which enabled them to engage Miriam Eisen, Elisabeth Friedman, Paulana Layman, and Janine Muller as researchers.

The second step was to invite analytical essays which would provide a framework for understanding the documents. Elazar, the 'father' of the discipline of Jewish Political Studies, contributed a discussion of constitutions and constitutionalism in Jewish history and tradition and of the methodological framework of the book. Lorraine Weinrib, one of Canada's foremost constitutional scholars, provided a discussion of the nature of Jewish citizenship in Canada and, more broadly, the relationship of all non-Christian minorities to the Canadian state. Weinrib's essay illuminates the ways in which recent legal and constitutional trends reflect basic changes in the position of Jews and other religious and ethnic minorities in Canada over the past century. Robinson and Brown turned their attention to the constitutional documents of communal organizations and synagogues, respectively. Jay Eidelman took a comparative historical approach, looking at parallel institutions in Canada and the United States. Finally, the editors collaborated on a selection of excerpts of pertinent constitutional documents illustrating central points discussed in the interpretative essays. This volume is the result.

THE EDITORS

## Notes

- 1 Daniel J. Elazar, Jonathan Sarna, and Rela G. Monson, eds., *A Double Bond: The Constitutional Documents of American Jewry* (Lanham, MD: University Press of America, 1992).
- 2 Earlier studies include Daniel Elazar and Harold Waller, *Maintaining Consensus: The Canadian Jewish Polity in the Postwar World* (Lanham, MD: University Press of America, 1990); and Harold Waller, "The Canadian Jewish Polity: Power and Leadership in the Jewish Community," in *The Jews in Canada*, Robert J. Brym, William Shaffir, and Morton Weinfeld, eds. (Toronto: Oxford University Press, 1993), pp. 254–69.

# Acknowledgements

This book has been long in the making. The collection of documents from organizations across Canada took the combined efforts of a number of people: Miriam Eisen, Elisabeth Friedman, Paulana Layman, and Janine Muller. Merle Lightman of the Centre for Jewish Studies at York University has assisted with the project in invaluable ways. In fact, its completion would not have been possible without her. The Centre and the Department of Religion at Concordia University have been extremely forthcoming in support of the project. Through a generous research grant, the Department of Canadian Heritage of the Government of Canada has provided the funding that enabled the editors to bring the project to completion. Vicki Bennett and Lynne Mackay of the University of Ottawa Press have guided us safely and surely through the shoals of the publication process.

Thanks are also due to the many organizations, archivists, and other individuals all over Canada who have taken the time to locate the documents we requested and to forward them to us. We are grateful to them and to the officers of various Canadian Jewish organizations for allowing us to print here excerpts from their constitutions and bylaws, which constitute the foundation documents of Canadian Jewry. We hope that this study will further our understanding of the Canadian Jewish community.

We also wish to thank our colleagues and families who have heard us talk about this project for several years. Their patience, encouragement, and advice were of great help to us. And finally, we owe a debt of thanks to our co-worker, Daniel Elazar of Bar-Ilan University, who inspired the project, but did not live to see its completion.

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# **PART I**

## **The Setting**

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# Issues and Contexts: An Introduction

DANIEL ELAZAR, MICHAEL BROWN,  
IRA ROBINSON

## The Issues

The immediate concern of this book is the political history of the Canadian Jewish community in its two contexts, Jewish and Canadian. As its starting point, however, the book takes one of the major historical problems in the study of modern Jewish political organizations: Are pre-modern Judaic political traditions evident in any way in contemporary Jewish organizational life? And, if there is some continuity, how significant is it, and how is it expressed? These are, of course, questions not only about transmission and links in the chain of tradition, but also about the interface of sacred and secular. At issue is the nature of the tie between the ancient and medieval Jewish worlds and the modern. Pre-moderns considered every aspect of human existence to be interconnected with religion; moderns tend to divorce religion and daily life and to construct even religious institutions along secular lines, as the discussion of synagogues herein illustrates.

The lens through which these issues are viewed here is that of the constitutional documents of Canadian Jewish institutions. There are several reasons for such an approach. One is that the Jewish experience has always been text-oriented. Since ancient times, Jews have tended to enshrine their most cherished beliefs and values in texts, and they have continued that practice in the modern period. Constitutions are written texts, the purpose of which is the conscious, public declaration of goals and ideals on the part of institutional leaders. In general, such documents record those precepts and standards about which the group will not entertain compromise, or at least would not at the time of formulation. As such, they can provide a uniquely reliable picture of

#### 4 The Setting

the fundamental values and norms of groups and institutions, often revealing significant information about those who frame and live by them. Polls and surveys tell us what is done. Constitutions tell us what people believe should be done.

As windows onto groups and societies, constitutional documents also have a serious shortcoming, one which is also their principal virtue. That is, they state ideals and perhaps behaviour at a given moment in time, while tending to be silent about minority opinions or subsequent divergence. Although these documents are rewritten or updated infrequently, institutional change usually occurs gradually, allowing breaches of constitutional provisions to be rationalized. Sometimes 'outdated' constitutions are simply ignored; commonly, revisions are made to inhibit changes that threaten to occur or to sanction innovations that have already been instituted. Only rarely do members of a group mount a court challenge on the grounds that the constitution has been violated.

The present discussion takes as a given the political dimension of the Jewish experience, both past and present. In the Diaspora, especially in modern times, that dimension of Jewish life has often been submerged and at times consciously denied. Ismar Schorsch and others have noted, however, that "political history is not a function of land, but of legal status and group cohesiveness,"<sup>1</sup> two issues which are central to understanding contemporary Jews.

The primary concrete expressions of legal status and group cohesiveness are political emancipation and Jewish identity. And they have established the agenda for the present research. The evolving nature of Jewish identity in the modern era and the ways in which modifications are delineated in the constitutional documents of Canadian organizations form the major thrust of most of the essays. The legal status of Jews lies at the heart of those essays which discuss context. Taken together, the essays can serve as a guide to the nature of that polity known as the Canadian Jewish community.

#### **The Canadian Context**

The political history of the Canadian Jewish community is in large part a product of the political and constitutional makeup of Canada. The framework was established first in a series of basic laws, then in the 1867 *British North America Act* (sometimes known as the *Constitution*

Act), a *de facto* constitution, and most recently in the new Canadian Constitution promulgated in 1982.<sup>2</sup> From the British conquest in 1759 until well after the Second World War, Canadians understood their country to be a national-cultural-religious duality. It was a nation of two peoples: French Canadians, who were French-speaking, of French origin, and Roman Catholic, and English Canadians, who were English-speaking, mostly of British Isles origin, and Protestant (with the exception of Irish Catholics). Since the 1960s, English Canadians, and to a lesser extent French Canadians, have come to view their country as made up of numerous ethnic, religious, and cultural groups – a multicultural mosaic in which no one group or culture is to be privileged. Since 1971, multiculturalism has been the official policy of the federal government. There is no little irony in the fact that the two-peoples concept of Canada accorded no sanctioned room for Jews or other non-British, non-French, non-Christian groups, while the multicultural mosaic notion depends upon the presence of those formerly considered outsiders.

The recent shift in national self-understanding occurred mostly because of the large-scale immigration of people from countries other than France and Great Britain in the postwar period. This phenomenon itself reflected a willingness to broaden the traditional understanding of “Who is a Canadian?” The new concept, which eventually became government policy, stemmed from two objectives: to blunt the potential impact of the French Canadian nationalist drive for separation from the rest of Canada and to make concessions to that nationalist sentiment palatable to English Canadians. Recognizing the cultural and linguistic distinctness of all the country’s diverse groups was thought to be a way of not recognizing the specialness of one, as French Canadians were demanding. With its promise of legitimacy and equality for all ethnic groups, the new interpretation was welcomed heartily by Jews and other long-time outsiders. They hastened to take advantage of its proffered ‘perks,’ such as ‘heritage language’ programmes in schools, chairs of ethnic studies in universities, and funding for community programming.<sup>3</sup> Not surprisingly, many French Canadians, as well as English Canadians jealous of their pride of place, were less enthusiastic. The shift in concept goes a long way towards explaining contemporary political tensions within Canada.

The recent shift is but one of many attempts in Canadian political and constitutional history to effect a compromise between rival groups and conflicting interests. *The British North America Act, 1867* itself rep-



resented a compromise between the maximalist exclusivists of both French and English Canada. It lent constitutional authority to the notion of a country composed of two founding peoples, each of which was to enjoy certain constitutional protections with respect to language, education, and religion, neither of which would exercise hegemony over the other.

The presence of Jews in a country in which Christianity, however defined, was not merely normative but constitutionally protected, forced the Canadian polity, as a whole, to adjust considerably. Canadians had to decide whether and how to accommodate non-Christians in terms of public policy.<sup>4</sup> For a time in twentieth-century Quebec, the structure was maintained by defining Jews legally as Protestants in order to ensure their right to public schooling. In other provinces, they were accommodated – often grudgingly – by ignoring the fact that, constitutionally, they did not belong.

The two-peoples concept also presented a challenge to be reckoned with by Jews, who were part of a small non-British, non-French minority and, for a long time, the only non-Christian group of any size in Canada other than native peoples. With which national group should they affiliate? To what degree would they be welcomed? And how were they to protect their communal and religious interests in schools, health-care systems, and elsewhere in the public square, when, by fundamental law as well as social convention, these were overtly Christian in character?

This challenge enabled – even required – Jews to establish autonomous organizational structures, parallel to those of the French and English but lying outside the constitutional framework. Jews founded synagogues, newspapers, charitable and social-action institutions, clubs of all sorts, and eventually schools. They also created a national structure of their own. At first, the Federation of Zionist Societies in Canada (later called the Zionist Organization of Canada) served as a Canada-wide, representative Jewish organization and as a locus for the national sentiments of Jews who could be neither French nor fully English.<sup>5</sup>

During the 1930s and 1940s, the Canadian Jewish Congress shared that role; in mid-century, it supplanted the Zionist Organization as Canadian Jewry's representative body. In the 1980s, the Congress began to lose its dominance, partly because of challenges from Zionists, B'nai Brith, community Federations, and other groups. At the opening of the twenty-first century, the leadership situation is still

fluid. (As the country became more inclusive and the two-peoples concept eroded, it became more appropriate and less self-effacing for Jews to embrace Canadian nationalism. But they remained much more attached to Zionism than did American Jews, a disparity which would seem to indicate that the Americans continued to feel more 'at home' and less separate in their New World domicile than did their cousins north of the border.) These structures, the local and the national, the unique and those that resemble the institutions of other countries or of other groups in Canada, have defined the Canadian Jewish community historically. Their constitutions are the texts of this book.

A second significant ramification of the original French-English constitutional accommodation emerges as well. For Jews, a positive side to Canada's duality was the existence of more than one model of "Who is a Canadian?" As a result, those who came to Canada were not subject to the same all-but-irresistible, melting-pot pressures for acculturation to one single pattern as in other countries of immigration, most notably the United States. The differences between Canada and the United States should not, however, be overplayed. In English Canada, there was a strong expectation that newcomers would acculturate, although the recompense offered (grudging or partial acceptance) proved less enticing than the award of full acceptance that the United States appeared at least to promise. More so than in many other places in the Diaspora, then, circumstances in Canada encouraged Jews to retain their traditional identity, to create their own institutional structures, and thus to assert their communal presence.

But there was also a negative side to Canadian duality: the recurring friction between the two major national groups. During periods of heightened tension, the ability of either group to tolerate deviance becomes diminished. As history has shown, Jews can become objects of obloquy for both. At such times, Jews have felt and exhibited considerable insecurity, with many coming to see themselves as second-class citizens.<sup>6</sup> For example, despite its relative cohesiveness and strong identity during the Hitler period, the Jewish community could not persuade the Canadian government to admit appreciable numbers of Jewish refugees. In this regard, Canada had the worst record of any country in the Western world.<sup>7</sup> In the same years, the community was equally ineffectual in fighting against local antisemitism fueled by longstanding Canadian attitudes and the influence of European fascism.

As already noted, the rise of multiculturalism in the latter part of the twentieth century, not to mention the concomitant decline in anti-

semitism, introduced a new way of construing the ideal Canadian polity. It also marked a new phase in the definition of "Who is a Canadian?" This change affected the Jewish community in a number of ways. The multicultural ethos lent new validity to Jews' endeavour to preserve their communal distinctiveness within Canadian society. At the same time, Jewish concerns entered into the debates regarding the shape of Canada's new constitution. It remains to be seen whether this new conception of Canadian identity will prove workable in the long run, given the current political and cultural atmosphere in which the ideal of multiculturalism has found itself under continued attack.

A less direct, but no less noteworthy, influence of the Canadian context upon the Jewish community was the intense interest in constitutions and constitution-making that since the late 1970s has gripped all Canadians. Multiculturalism made desirable – essential, in fact – a new constitution to replace the *British North America Act, 1867*. Debates over the content of the new document, particularly over the relationship of French Canada to the rest of the country and over the method of promulgation, raged for quite some time before its adoption. In the end, the constitution adopted in 1982, like the *Act* it replaced, was a compromise. Hence, debate about it has only intensified over the years. In addition, its *Charter of Rights and Freedoms, 1982* gives precedence to the individual to a degree unknown earlier in Canada and in ways that Canadians associate with the much more free-wheeling and individualistic United States. *Charter* cases now appear before the courts with considerable frequency, also serving to keep alive interest in the constitution. All of this ferment has focused most politically conscious Canadians on the issue of constitutionalism. A spin-off in the Jewish community has been the creation of new constitutions by a very large number of community groups and institutions in the last twenty-five years.

Throughout its history, then, Canadian society (and its fundamental laws) have promoted self-conscious Jewish identity and autonomous organization by providing 'space' for Jews to act. At first, that space was negative: interstices between the two founding peoples who made up the Canadian polity constitutionally. More recently, the space has been positive: tiles in the multicultural mosaic.

Even the positive space, however, does not guarantee the future of a vibrant, self-reliant Jewish community. Multiculturalism has 'arrived' in Canada at the same time that the exclusionary particularism practiced in the past by both French and English Canadians has lost some of its appeal in French Canada and all but dissipated in English Canada.

Just when Jewish separatism has gained social and constitutional legitimacy, the roadblocks in Jews' path to full integration into Canadian society (outside Quebec, at least) have been removed. At this moment, the choice between maintaining the distinctiveness of the Jewish group and its particular institutions or assimilating into the emerging inclusionary mainstream seems to be largely that of Jews to make. The future, as always, is shrouded in fog.

### The Jewish Context

Jews have lived in the territory which is now Canada for some two and a half centuries and have enjoyed an institutional presence for nearly as long.<sup>8</sup> Only at the very end of the nineteenth century, however, did the Jewish community become numerically and culturally significant. Earlier, as shown in Jay Eidelman's essay which appears elsewhere in this volume, the 'remnant of Israel' in Canada lived in the religious and institutional shadow of their longer established and more numerous brethren in England, the mother country, and in the nearby United States. Individual Jews were relatively prosperous, well acculturated, and well accepted in English Canada during the first century of Jewish life there.

The situation changed drastically with the arrival in Canada of larger numbers of immigrants in the years after 1900, years marked by mounting antisemitism and other varieties of nationalist xenophobia in many countries. Overwhelmingly eastern European in origin and part of a major wave of emigration from the Jewish heartland of Europe – Russia, Austria-Hungary, and Rumania – these Jewish immigrants conformed neither to Canadians' racist conceptions of the ideal newcomer nor to their government's wish to populate the country with sturdy farmers. Jews tended to settle in the large metropolitan centres of Montreal and Toronto and in the emerging centre of Winnipeg. Many went to work in the insalubrious sweatshops of the burgeoning garment industry. The immigrants' institutional life owed more to their eastern European origins than to England or the United States.

By the First World War, Canadian Jewry was beginning to look beyond both its European origins and local concerns and to coalesce into a nationwide community. As noted earlier, the symbols and the instruments of that coalescence were the Zionist Organization of Canada and the Canadian Jewish Congress. In the 1930s, the Congress was

unable to exert 'Jewish power' in government circles. It did succeed, however, in playing a unifying leadership role in the community, which was coming to maturity amid the multiple challenges of the Great Depression, the rise to power by the Nazis in Germany, and the emergence of widespread, virulent antisemitism in Canada.

As noted earlier, there have been marked changes in Canadian society and in the Canadian Jewish community since the Second World War. For the first time since the 1920s, significant numbers of Jewish immigrants were again arriving in Canada. The newcomers came from Hungary, North Africa, South Africa, Israel, the former Soviet Union, and, in smaller numbers, from South America, western Europe, and the United States, thus creating a multicultural Jewish community. Among other benefits, the postwar decline of antisemitism resulted in expanded educational and economic opportunities for Jews.

One of the largest and most active Jewish communities in the world today, Canadian Jewry now possesses the demographic, cultural, and economic resources to create and sustain a significant cultural and religious life of its own. At the same time, it maintains a broad network of connections with the Jewish communities of the United States and with Israel. The earlier attachment of Canadians to Zionism has translated easily into passionate individual and institutional identification with the state of Israel. On the other hand, Canada's growing distance from Great Britain and its diminishing distance from the United States echo in Jewish life. American Jewry has come to exert a very powerful influence on the Canadian Jewish community.<sup>9</sup> Culturally and religiously, it is the American and not the Israeli nor the European denominational pattern that has taken root in Canada.

At present, differentiating Canadian Jewry from its American counterpart is largely a matter of perceiving nuances. For example, in Canada, Orthodoxy is more prominent than it is in the United States, and Reform is less so. Only the North African Sephardic Jewish communities established in Canada, predominantly in Montreal but also in Toronto, constitute an entity that defies categorization on the American denominational spectrum. American patterns are increasingly evident with regard to secular organizations, as well. This is most clearly demonstrated by the decline of the Canadian Jewish Congress as a national representative organization speaking for the Jews of Canada. As noted earlier, community Federations, the United Jewish Appeal, and the United Israel Appeal now exercise overwhelming power in the Canadian community, as they do in the American.

The number of Jewish organizations in Canada today, not to mention the variety of purposes, indicates a highly complex, if not unique, community. In its own way, each organization is trying to answer the perennial questions of Jewish modernity: "Who is a Jew, and what is his or her connection to the Jewish past?" These are questions that most constitutions attempt to answer in their provisions regarding membership qualifications and rights.

When examined historically, the documents in this book reveal the process by which Canadian Jewish organizations adapted to changing Canadian conditions and mores while attempting to preserve Jewish distinctiveness. Understanding its institutions will lead ultimately to an understanding of the community as a whole. That, in turn, will serve a wider purpose: shedding light on Canadian society, as a whole, and, as well, on the place of Jews and Judaism in the contemporary world.

## Notes

- 1 Ismar Schorsch, "On the History of the Political Judgment of the Jew," in Ismar Schorsch, *From Text to Context: The Turn to History in Modern Judaism* (Hanover, NH and London: University Press of New England, 1994), p. 121. Compare also, Daniel Elazar, *Community and Polity* (Philadelphia: Jewish Publication Society of America, 1976).
- 2 Irving Abella's *Canadian Jewry: Past, Present and Future* (Toronto: Centre for Jewish Studies at York University, 1998) presents a brief, very optimistic overview of the Canadian Jewish experience in its context.
- 3 Compare among other sources, Richard Menkis, "A Threefold Transformation: Jewish Studies, Canadian Universities, and the Canadian Jewish Community, 1950–1975," and Michael Brown, "The Canadian Context for Jewish Studies: An Introduction," both in *A Guide to the Study of Jewish Civilization in Canadian Universities*, Michael Brown, comp. and ed. (Jerusalem: The International Center for University Teaching of Jewish Civilization of the Hebrew University and Toronto: The Centre for Jewish Studies at York University, 1998), pp. 43–69 and 3–9 respectively; Harold Troper, "Ethnic Studies and the Classroom Discussion of Antisemitism: Personal Observations," in *Approaches to Antisemitism: Context and Curriculum*, Michael Brown, ed. (New York: The American Jewish Committee and Jerusalem: The International Center for University Teaching of Jewish Civilization, 1994), pp. 193–203.

## 12 The Setting

- 4 See Michael Brown, *Jew or Juif? Jews, French Canadians, and Anglo-Canadians, 1759–1914* (Philadelphia: Jewish Publication Society of America, 1987); *idem*, “The Beginning of Jewish Emancipation in Canada,” *Michael* 10 (1986): 31–38; and Sheldon J. and Judith C. Godfrey, *Search Out the Land: The Jews and the Growth of Equality in British Colonial America, 1740–1867* (Montreal and Kingston: McGill-Queen’s University Press, 1995). The last tends to gloss over the problematic of institutionalized Christianity.
- 5 See Michael Brown, “Divergent Paths: Early Zionism in Canada and the United States,” *Jewish Social Studies* 44 (spring 1982): 149–68; *idem*, “Canada and the Holy Land: Some North American Similarities and Differences,” in *With Eyes Toward Zion: Western Societies and the Holy Land*, Moshe Davis and Yehoshua Ben-Arieh, eds., vol. 3 (New York: Praeger, 1991), pp. 77–95.
- 6 See, for example, Alan Davies, ed., *Antisemitism in Canada: History and Interpretation* (Waterloo: Wilfrid Laurier University Press, 1992).
- 7 Irving Abella and Harold Troper, *None is Too Many: Canada and the Jews of Europe, 1933–1948* (Toronto: Lester and Orpen Denys, 1982).
- 8 For surveys of Canadian Jewish history, see Irving Abella, *A Coat of Many Colours: Two Centuries of Jewish Life in Canada* (Toronto: Lester and Orpen Denys, 1990); Gerald Tulchinsky, *Taking Root: The Origins of the Canadian Jewish Community* (Hanover and London: Brandeis University Press, 1993); and *idem*, *Branching Out: The Transformation of the Canadian Jewish Community* (Toronto: Stoddart, 1998).
- 9 See the discussion in Michael Brown, “The Americanization of Canadian Zionism, 1917–1982,” in *Contemporary Jewry: Studies in Honor of Moshe Davis*, Geoffrey Wigoder, ed. (Jerusalem: The Institute of Contemporary Jewry [of] the Hebrew University, 1984), pp. 129–58.

# Using Foundation Documents in the Study of Jewish Public Affairs<sup>1</sup>

DANIEL J. ELAZAR

## The New Jewish Constitutionalism

Constitutionalism has been a pre-eminent aspect of the Jewish political tradition from earliest times. While the Torah, the fundamental constitution of the Jewish people, is traditionally viewed as God-given (assented to freely by the Jewish people through a series of covenants), Jews have nonetheless engaged in a considerable amount of constitutional design and redesign over the years. The Torah itself seems to have passed through several such stages. In addition, the Bible records several constitutional reform movements of importance, including the establishment of *mishpat ha-melukhah* (the constitutional law of the kingdom) at the time of the introduction of the office of *melekh* (king), the Josianic reform, and the re-covenanting under Ezra and Nehemiah.<sup>2</sup>

The *Mishna* and *Gemara* from the rabbinic period are both massive examples of constitutional redesign which set out within them the accepted principles of constitutional change established by the sages for application within what came to be known as the *halakhic* (Jewish legal) framework. The transfer of the locus of power in the Jewish world to individual communities in the Middle Ages led to a period of great constitutional creativity, presided over by the major *poskim* (rabbinic legal experts) of the time. These *poskim* became the architects of a new constitutional law based on the Torah and Talmud that enabled communities to function as autonomous entities with full powers.

Constitutional documents from a period stretching over five centuries or more can be identified from at least a few communities of the Old World. In the premodern period, *askamot* or *takanot hakahal* (com-



munal ordinances) established the frameworks of internal government for Jewish communities based entirely on *halakhic* sources. Often they were paralleled by charters and grants from the non-Jewish rulers establishing Jews' status and privileges. With the beginning of the modern epoch in the seventeenth century and the end of Jewish autonomy, Jewish communal constitutions increasingly were enacted as organic statutes adopted through the legislative process of the non-Jewish society. They were, however, still composed by representatives of the Jewish communities. These ordinances were already modern documents not directly derived from *halakhic* sources. Since most of the major Jewish communities of modern times are new or have had to be restored after centuries-long expulsions in late medieval times, there is often no inner continuity between the premodern and modern documents.

The modern epoch in Jewish life is conventionally viewed as a time in which the indigenous constitutional apparatus broke down. This is true enough as far as it goes, but what is often overlooked is the degree to which the Jewish people did not abandon constitutionalism. Rather, they experimented with constitutional designs reflecting the new conditions of modernity and emancipation. Some of these experiments were very visible and represented grand efforts; others were local attempts to constitutionalize new or revamped institutions whose aim was to accommodate the ideologies of the surrounding societies and to give them a constitutional framework within which organized Jewish life could function. This process intensified following both World Wars, as the loci of Jewish life completed their movement from older centres, which had been organized under traditional constitutions, to the New World and the state of Israel, where new expressions of Jewish constitutionalism were emerging.<sup>3</sup>

In the cases of Canada and the United States, both entirely modern Jewish communities, the practice has been for institutions and organizations to draw up their own constitutional documents. These are not communal constitutions as in the all-inclusive communities of the Old World, but rather constitutions serving organizations with differentiated roles in the community. State approval is essentially automatic. While the constitutions must conform to the general laws for the incorporation of non-profit associations, no further state action is required.

Generally, American and Canadian law has directed that all voluntary associations, including Jewish ones, adopt such organic laws. Association members, however, have not necessarily treated those constitutions with deference or even viewed them as important. For the

most part, only when controversy has erupted within a group, has one or another side had recourse to the body's organic law in an effort to gain advantage or prove a point.

### Constitutionalism in Modern Jewish Thought

Casual attitudes towards the constitutional documents of modern and postmodern Jewry have been compounded by the fate of constitutionalism in modern Jewish thought. There is every reason to believe that in the first epochs of Jewish history, at least through the Second Commonwealth, the Torah was viewed as a constitution or its equivalent. Josephus, who was the first to describe the Torah in the terminology of Western constitutionalism, tried to explain the ideas and practices of Judaism in the then dominant terminology of Greek thought. In doing so, he described something that rang true for the Jews of his time.<sup>4</sup> With the triumph of the Pharisees in the latter years of the Second Commonwealth and particularly after its destruction, constitutionalism became more complex as the notion of Torah-as-constitution was increasingly replaced by the notion of Torah-as-detailed-code.<sup>5</sup> This trend became more pronounced in the Middle Ages; it intensified on the threshold of the modern epoch with adoption of the *Shulhan Arukh* as the standard *halakhic* code in Jewish communities throughout the world.

The early modern era saw a sharp intellectual reaction to this development. The two great founders of modern Jewish thought, Spinoza and Moses Mendelssohn, laid the groundwork for change. In his *Theological-Political Treatise* (1670), Spinoza accepted the traditional understanding of the Torah as the constitution of the Jewish people. In opposition to the dominant trend in medieval European constitutional thought, however, he claimed that it was the constitution of the Jewish people only and applicable only in a Jewish state in the land of Israel. While not ruling out the future restoration of that state and its constitution, Spinoza argued that the Torah was irrelevant for Jews or Christians before such a restoration. Mendelssohn also emphasized the Torah as constitution. He did not reject Judaism in the way Spinoza did, however, and he made an even stronger case for its constitutional character in every realm, not only the political. In his book, *Jerusalem*, Mendelssohn argued that this constitution had limited authority. Furthermore, he asserted that in the Diaspora under modern conditions, it

was precisely this constitutional dimension that Jews had to give up – except in the most narrow sense of Jewish ritual – in order to become citizens of modern civil societies.<sup>6</sup> Thus Spinoza provided the justification and Mendelssohn the direction of the deconstitutionalization of modern Jewish consciousness.

Their line of thinking was adopted by the Reform Movement that emerged in the early nineteenth century. Reform transformed Judaism into a religious cult resting on the ideas of the Enlightenment; it rejected the binding character both of the Torah as constitution and of the interpretative codes. Rather than an expounder of the Torah, the rabbi now became a leader whose task it was to enable his congregants to reach out to God as individuals. Meanwhile, Reform congregations adopted constitutions that outlined their structure and functions pursuant to state law.<sup>7</sup>

But this is not the whole story. For ordinary Jews, especially those engaged in establishing new communities, writing a constitution could still prompt the desire to proclaim their goals and establish the rules of order necessary to achieve them. The contemporary constitutions of the Jewish people speak to that reality, even when they have been written to fulfil a legal requirement. What did happen, however, was that while congregations and communities continued to write and adopt constitutions, the idea of constitutionalism as part of the Jewish experience dropped from Jews' intellectual consciousness. In Israel, the absence of a national constitutional document has persuaded most Israelis that the country has no constitution. Hence, constitutionalism plays a minor, albeit growing, role in public consciousness.

The experience of the recent past does not mean that constitutions will continue to be viewed as insignificant. In fact, in Israel in the past decade, there has been growing awareness of the importance of a constitution, first within the main institutions of the Israeli government, particularly the Supreme Court and the Knesset, and now also among the public.<sup>8</sup> The Israeli experience may not yet be paradigmatic for world Jewry, but it may be a harbinger of what is to come. One reason is that constitutionalism has again become an important concern in the larger world. Increasingly, too, constitutions, the ideas of which are internalized by the publics they serve and translated into appropriate political action, are being recognized as vital to the preservation of democratic self-government.<sup>9</sup>

It is my contention that modern and contemporary Jewish institutions and communities have developed constitutional documents that

reflect the ways in which they function. Out of experimentation, moreover, a major constitutional movement has emerged in Jewish life, one reflected in new efforts at constitutional design appropriate to new situations. This thrust will persist within the next few generations leading towards the development of a common constitution or, at the very least, a common set of constitutional principles for a postmodern Jewish people.

### **The Jewish Textual Tradition and Jewish Political Studies**

Jewish tradition is pre-eminently textual, rooted in a series of written documents beginning with the Bible and continuing through the Talmud, the works of medieval biblical and talmudic commentators, the *poskim*, and the exponents of Jewish thought. An engagement with that tradition and the Judaism that flows from it continues to mean engagement with those texts. This is true for Jews of all persuasions, even those segments of Judaism that initially sought to abandon or reduce the role of texts.

The textual tradition has successfully met the needs of the Jewish people, providing them with a constant and relatively definitive set of reference points. The textual tradition has served the Jewish people well despite differences in understanding and interpretation, differences which in modern times have been very real. One might say that the textual tradition has held Judaism together in the face of strong fissiparous tendencies; indeed, the study, teaching, and learning of texts have always played a major role in the promotion and dissemination of Judaism and Jewish civilization.

The modern study of Jewry has invited consideration of historical and social scientific issues for the first time. Both disciplines represent departures from traditional Jewish studies, because they are not grounded in a set of received texts. Historians of the Jews were successful in securing the limited endorsement of traditional Jewish studies scholars because, like other historians, they rely on written documents. Social sciences, such as sociology, on the other hand, generally omit texts and documents from their methodology. As a result, they have had difficulty in gaining full recognition as legitimate Jewish studies disciplines.

Jewish political studies is a relatively new, separately articulated discipline within both Jewish studies and political science. It has been

developed in the last thirty years by scholars around the world, most particularly by groups at the Jerusalem Center for Public Affairs and Bar-Ilan University. Like political science in general, it is in a bridging position among the social sciences, history, and the humanities, encompassing, as it does, the study or exploration of political philosophy, political institutions, and political behaviour. From the start, Jewish political studies was able to build links both with the contemporary social scientific study of Jewish life and with traditional Jewish studies; it was accepted by the latter somewhat more willingly than by the former. Since 1969, the field has been represented under its own name at the World Congress of Jewish Studies, at the Association for Jewish Studies, and worldwide at specialized conferences, institutes, workshops, and a variety of other forums and in publications (for example, articles by this writer that have appeared in *Judaism* and the *American Jewish Year Book* since the 1960s).<sup>10</sup>

Like the social sciences, Jewish political studies suffered from an unclear connection to the Jewish textual tradition. Beginning in 1976 with the bicentennial of American independence and the general reconsideration of the basic texts of American democracy, a clearer relationship has emerged. Scholars of Jewish political studies found a way to connect with a textual discipline through the constitutional documents of modern and contemporary Jewish communities, polities, and institutions. These documents, beginning with those of medieval times but most particularly with those from the early years of the modern epoch in the seventeenth century, make up a rather coherent body of material.

While not sacred in character, the recent documents express the norms, realities, and needs of Jewish political, communal, and congregational life. They reflect a sense of the higher self-understanding of Jewish communities and can be studied and appreciated as such. Knowledge of their applications and functions can increase understanding of Jewish communal and public affairs and of the relationship between those matters and the traditions of Jewish constitutionalism.

The usefulness of these constitutional documents became apparent to researchers at the Jerusalem Center for Public Affairs when they began to explore eighteenth-century American Jewish communities. We were eager to know whether those communities had been influenced by American revolutionary and constitutional ideas, and whether their documents reflected such influences. We did, indeed, find a few documents that illustrated the direct influence of the American experience on colonial Jewish institutions: congregational constitutions written in the

style of early state constitutions or of the federal Constitution of 1787, for example. There is even a bill of rights written for Congregation Shearith Israel in New York, the first Jewish congregation to be established in North America. Embodied in the congregation's third constitutional revision, the bill of rights was written at the same time as the American constitution. More important, when reading these constitutional documents as a collection, researchers found a pattern suggesting a textual tradition, a text-based lens through which to view modern Jewish institutions.<sup>11</sup>

### **Studying the Constitutions of Contemporary Jewry**

This brings us to the study of the constitutional documents themselves. Why should we study them? Constitution-making, properly considered, brings us back to the essence of the political. Extra-political forces may influence the writers of a constitution or the setting in which they undertake their task. The dynamics of constitution-making include questions of what Vincent Ostrom has termed, "constitutional choice".<sup>12</sup> They involve direct political expressions, engagements, and choices. A constitution is a political artifact; writing one combines science, art, and craft. It demands the identification of basic scientific principles of design and familiarity with the technologies derived from them. A scholar must study not only what is chosen, but who does the choosing and how.<sup>13</sup>

Even greater skill is required to convince the constituency to bestow legitimacy upon the constitution. People can be coerced to obey a particular regime, but constitutional legitimacy involves consent. Consensual legitimacy is absolutely necessary for a constitution to have meaning and to endure. The very fact that constitutions can exist as meaningful instruments only through the consent of the governed, demonstrates that constitution-making is the pre-eminent political act.

There is yet one more perspective from which to consider contemporary constitutional documents. They act as indicators and tracers. Even if these documents are of minor significance to Jews, they serve as measures of the impact of host cultures and Jewish communities on one another.

The first step towards the revival of constitutionalism in the Jewish polity is the recognition of two aspects of contemporary constitutional documents: how they have been shaped by the modern and postmod-

ern environments in which they have been produced, and the extent to which they perpetuate older Jewish models. In other words, the constitutional documents become a way of gauging the relationship between continuity and change in Jewish life. Given the origins of many such documents in the legal requirements of the government jurisdiction in which particular institutions are located, we can expect that the documents will reflect their environment. On the other hand, one should find manifest, or at least latent, expressions of the Jewish political tradition in organizational forms, if not in style or terminology.

For example, the first constitutions of Jewish congregations and organizations in the United States echo traditional Jewish patterns. Over time, however, acculturating Jews changed or replaced those constitutions with new ones which increasingly reflected American democratic individualism and volunteerism. The documents move from a traditional outlook, including an almost universal commitment to religious observance, to a modern outlook, even among those who remain faithful to the religion. At the time of the American Revolution, there was deliberate recourse to constitutional change in order to give voice to the spirit of the event within the Jewish fold.

It is not always easy to distinguish between non-Jewish and Jewish influences. The constitution of Congregation Beth Shalom of Richmond, Virginia, adopted in 1789, the year that the U.S. Constitution went into effect, is a good example. It begins:

We, the subscribers of the Israelite religion resident in this place, desirous of promoting the Divine worship which, by the blessing of God, had been transmitted by our ancestors, have this day agreed to form ourselves into a society for the better effecting the said laudable purpose, to be known and distinguished in Israel by the name of Beth Shalom.

What could sound more American than this apparent imitation of the newly-adopted U.S. Constitution? In fact, however, constitutions with such 'We the people' preambles are found in Jewish history going back at least 1,000 years. They appear in *Sefer HaShtarot*, compiled by R. Judah ben Barzillai HaBargeloni in twelfth-century Spain from earlier sources.<sup>14</sup> The book is a collection of model basic laws that Jews could use in organizing associations and communities.

One can detect a movement from oligarchy to democracy in American Jewish constitutions. Historically, Jewish institutions have been

republican. At various times, however, self-rule has been oligarchic within the republican framework. In other words, the Jewish polity and its communities constitute a *res publica*, a public entity in which all Jews are ultimately equal citizens. It is not the private preserve of any of its members, although the governance of communities often has been in the hands of small groups that have organized communal institutions in order to preserve their control.

In part, oligarchic control has been justified in the name of an aristocratic republican ideal fundamental to the older Jewish political tradition. According to that ideal, the special bearers of Torah merit a favoured position in the community and often form alliances with economically or politically powerful families. Early in the modern epoch, the disparity between rich and poor increased, especially in eastern Europe. The bearers of Torah allied themselves with the wealthy enabling them to devote their lives to Torah, thereby instituting oligarchic rule within the community.<sup>15</sup> In small ways, this process drove Jews – at least those who were outsiders – away from traditional Jewish environments. The poor tended to emigrate. Those who came to the United States quickly seized upon the spirit sweeping the country to democratize their congregations. Similar transformations took place in other New World countries, moderated only by the degree to which the non-Jewish societies emphasized elite, rather than democratic, rule.

In western Europe, on the other hand, rule by notables was well accepted and clearly reflected in the constitutional documents of the Jewish communities. Consider Germany, France, and Britain. Germany remained closest to the traditional Jewish community, with little distinction between congregation and community. Comprehensive community organizations embraced one or more congregations, and the customary division of power obtained. The *baalei batim* (householders) represented the *keter malkhut* (the domain of civil rule), and the rabbi represented the *keter Torah* (the domain of Torah, or God's teaching) in Orthodox circles or the *keter kehunah* (the domain of priesthood assisting lay people in reaching towards the Divine) in non-Orthodox circles. The *baalei batim* and the rabbis shared communal governance, albeit with a certain tension built into the relationship. The result was a matrix of communal unions federated countrywide.<sup>16</sup>

In France, external societal and state pressures transformed the Jewish community into a church similar to the hierarchical Catholic model and led to the emergence of consistorial constitutions. Those constitutions vested all authority in the synagogues and in territorial



synagogue bodies whose leadership was to be self-perpetuating, in other words, a religiously-centred power pyramid. This, too, led to rule by notables; it also led to efforts to circumvent state-imposed constitutional limits on Jewish communal-cum-congregational organization.<sup>17</sup>

In Britain, the Board of Deputies model, introduced in 1760 by act of Parliament at the request of Jews and modified from time to time as warranted, established the constitutional basis for rule by the 'cousinhood.' This close-knit network of notable families represented the Jewish equivalent of the aristocracy that ruled Britain itself. A representative body embracing all (or almost all) Jewish congregations and other bodies in Britain, the Board of Deputies was the centre of communal governance and power by which the peripheries were represented.<sup>18</sup>

In the twentieth century, all three models underwent democratization that was manifested in constitutional documents. Germany and France relaxed or removed state control over the Jewish community. In France, looser state control led to a fuller articulation of Jewish communal comprehensiveness than had been possible under the consistorial system. In Britain, there were fewer structural changes, but a substantial broadening of the leadership base allowed the older structure to work.<sup>19</sup>

### **Elements to be Examined in the Study of Contemporary Jewish Constitutional Documents**

To study contemporary Jewish constitutional documents, it is necessary to begin by identifying the areas in which continuity and change are likely to be expressed. Governance is the most important of these. How are authority and power organized constitutionally? To what extent do the constitutional documents reflect the traditional Jewish division of powers among the three *ketarim*? To what extent do they embody different forms of organizing power which themselves reflect specific circumstances?<sup>20</sup> The second most important area is the relationships between congregation and community, between local and countrywide communities, and between individual communities and the Jewish people as a whole. Are these relationships federal in the traditional Jewish manner? Do they take on some other form when responding to external demands? With regard to both governance and institutional relationships, to what extent is continuity a result of practices being appropriate to the specific circumstances of a community?

A third element is religious observance and the relationship to *halakhah* and traditionalism. Constitutions invite particular questions. For example: To what extent do institutions and communities maintain a connection with *halakhah* and the tradition? What attitudes towards religious practice do they adopt (regarding separate seating at religious services or kosher food in 'secular' organizations)?

Constitutional documents reflect the aspirations of those who design them. Those aspirations are embedded in the principles on which the documents are based; understanding them requires a comparison with the traditional constitutional principles of the *edah* (community). The latter can be delineated as follows:

1. The Torah is the constitution of the *edah*.
2. All members of the *edah* – men, women, and children – participate in constitutional decisions.
3. Political equality exists for those capable of taking full responsibility for Jewish survival.
4. Decisions are made by an assembly that determines its own leaders within the parameters of Divine mandate.
5. The *edah* is portable and transcends geography.
6. Nevertheless, for it to function completely, the *edah* needs *Eretz Yisrael* (the land of Israel).

These basic principles have been preserved over the centuries with modification when necessary. In biblical times, taking responsibility for Jewish survival meant being able to bear arms. Subsequently, the arms-bearing criterion of political equality gave way to one of Torah study. Today, the criterion in the Diaspora is contributing to the support of Israel, while bearing arms is again the criterion in Israel itself. The principles of assembly, leadership, and decision-making have remained the same, although modes of assembling, leadership recruitment, and leadership itself have changed from time to time. The portability of the *edah* born in the desert is as notable a characteristic as attachment to Zion. The Torah has persisted as the constitution of the *edah*, albeit with changing interpretations.

With those principles in mind, we can examine constitutional documents in light of three important notions of the emerging world Jewish polity:

- a) Torah is constitution rather than code. That is to say, it consists

of basic principles and guidelines, rather than detailed prescriptions for specific aspects of life.

- b) State and Diaspora are linked through national institutions in an emerging federal relationship.
- c) Citizenship in the Diaspora is increasingly voluntary and based upon contributions to the United Jewish Appeal and congregational or organizational membership. In Israel, it is based upon the formal obligations of Israeli citizenship.

Constitutional documents should help us delineate the fundamental norms of each Jewish community. In the American case, for example, we have identified fifteen such principles which define the basic components, purposes, powers, processes, and limitations of the polity.<sup>21</sup>

- 1) voluntary citizenship;
- 2) associationalism;
- 3) federalism;
- 4) governance through trusteeship;
- 5) shared and divided authority;
- 6) consensualism;
- 7) Jewish survivalism;
- 8) mutual responsibility (*brit arevut*);
- 9) vital importance of Israel;
- 10) respect for Jewish tradition without necessarily being traditional;
- 11) recognition of the Jewish polity as a partnership between God and the Jewish people;
- 12) recognition of the Torah as the constitution of the *edah*;
- 13) viewing the *edah* as portable and transcending geography;
- 14) pluralism;
- 15) American patriotism as sacred and compatible with Jewish loyalty.

Once the constitutional principles have been identified, it is important to determine the special constitutional terminology or language used in particular documents. Is that language traditionally Jewish, or is it a convention of the environment in which the constitution was prepared? Does the language reflect the covenantal element in the Jewish political tradition, the division of power among the *ketarim*, and the constitutional standing of the Torah?

Using these guidelines, the Jerusalem Center for Public Affairs initiated a project in 1987 to study the constitutions of contemporary Jewish communities, institutions, and organizations. The study began with the constitutions of American Jewry which represent perhaps the largest concentration of new forms of Jewish constitutional expression. The initial study asked two central questions: To what degree did the American experience influence Jews who settled or were born in the United States, as they built their institutions, and to what extent were older elements of the Jewish political tradition (identified through other research) preserved and reflected? The first stage of this project was initiated by the Center for Jewish Community Studies of the Jerusalem Center with the Center for the Study of the American Jewish Experience of the Hebrew Union College – Jewish Institute of Religion in Cincinnati and New York. The project was undertaken in 1987, as part of the commemoration of the bicentennial of the United States constitution.

The study asked the following: “What is Jewish about the constitutions and other foundation documents of American Jewry, and what is American in character?” In other words, what did the Jews who settled in the New World bring with them from the Jewish political tradition and pass on to their descendants, and what did they and their descendants acquire from the American experience? The study examined constitutions of synagogues, community federations, and other local and countrywide organizations from colonial times to the present, looking for patterns of development. Valuable material was discovered that proved helpful in understanding such processes as the democratization of Jewish life, the changing basic norms of Jewish affiliation and public behaviour, the development of new institutions appropriate to the demands of modern republicanism, and others. These documents are significant, even though they are not necessarily treated with any special reverence within the organizations they serve, and even though they are consulted only when constitutional issues arise. The study concluded that, at the very least, the documents reflect both continuity and change as well as expectations at a given moment.

The first stage of the project resulted in the publication of *A Double Bond: The Constitutional Documents of American Jewry* edited by Professors Daniel J. Elazar, Jonathan Sarna, and Rela G. Monson. The book consists of five analytical articles in addition to a selection of constitutional documents. As well, archives of constitutional documents were established at the American Jewish Archives in Cincinnati, the Center

for Jewish Community Studies and Gratz College in Philadelphia, and the Jerusalem Center for Public Affairs.

An additional result of the first project was a determination to apply the same methodology in examining the constitutional documents of other Jewish communities in the modern and postmodern worlds. At present, the project is collecting and studying the documents of late medieval, modern, and contemporary British, German, and Italian Jewries; records of the nineteenth- and twentieth-century communities of Australia, Canada, France, Israel, New Zealand, and South Africa; documents of the revived communities in the former Soviet Union, other countries of eastern Europe, and Latin America.<sup>22</sup> This book on Canadian Jewish constitutions is the second comprehensive study to be produced by the project. It is a fitting second volume, because of the similarities and differences between the United States and Canada, and because Canadian Jewry serves as a bridge between American Jewry and other diaspora communities.<sup>23</sup>

The methodology of the studies was originally developed by this writer and his colleagues at the Center for the Study of Federalism at Temple University while undertaking work on American federal and state constitutional design. These methods have been used in conjunction with models developed by this writer and Stuart A. Cohen in their study of constitutionalism in Jewish political history.<sup>24</sup> With the assistance of Rela G. Monson (now Geffen) and Jonathan Sarna, they were adapted to the American scene for the first stage of the project. Michael Brown and Ira Robinson are doing the same for the present study.

The research has two aims. One is to explore the process of Jews' integration into their countries of residence to understand better how they assimilate to the political patterns of those countries and the extent to which they preserve elements of traditional Jewish political models. Second, and perhaps more important in the long term, the study seeks to build a textual framework for the social scientific study of modern and contemporary Jewish communities that will link the political and social sciences to the older and normative Jewish textual tradition.

The intention is to replicate the U.S. study in as many countries as possible. In European countries, particularly Italy and Germany, researchers have the added opportunity of studying the full process of communal modernization; foundation documents from the High Middle Ages to the latest revision of the constitution of the Italian Jewish community in 1989 are available.<sup>25</sup> These documents can be found in

various archives in Europe, the National Library in Israel, and the Widener Library at Harvard University. As part of this project, special archival collections have also been established at the Jerusalem Center for Public Affairs and the Center for Jewish Community Studies in Philadelphia.

Individual scholars or teams will research different parts of the project. In addition to the present volume, Alan Mittleman is studying Germany; Steven Levine is researching New Zealand; Rela Geffen has gathered a broad sample of British documents; Yaakov Lattes has been studying the documents of Italian Jewry; and this writer and Ilan Troen are working on Israeli documents. As 'cases' are completed, a comparative analysis will be undertaken. To date, two issues of *Jewish Political Studies Review* have been devoted to analyzing cases and documents.<sup>26</sup>

### What Have We Learned So Far?

Generalized findings from this project fall into six categories:

1. There is an overall shift from more traditional and indigenous Jewish models to more modern patterns, often those used in the larger society. The Jewish political tradition, however, has not been abandoned. The shift takes several forms.

In the Old World context, we find that prior to Jewish emancipation, communities and organizations were governed by *askamot* or *takkanot* (ordinances), which were drawn up on the basis of talmudically-defined formulas grounded both in *halakhah* and in 'lessons' derived from the Bible and filtered through the *halakhic* process. These pre-modern constitutional documents contain echoes of the larger, non-Jewish environments in which they were developed. Their overwhelming thrust, however, was derived from the Jewish political and *halakhic* traditions.

After emancipation, Jewish communities and associations, like other religious and non-religious bodies, were required by governments to adopt constitutions and other foundation documents. While there was some willingness to allow Jews to preserve Jewish elements in their constitutional documents, the framework of those documents and some portion of their content had to conform to general state regulations. For example, until the eighteenth century, constitutional documents in Italy

were based entirely on talmudic forms. They were redrawn in modern form as required by the authorities in the various Italian states even prior to unification in 1860.

In countries where there were no official requirements or where there were only general requirements of incorporation, Jewish communities and organizations were free to design constitutional documents as they wished. In most of these cases, however, the desire to conform to local norms meant that Jews freely adopted the societal models. An example is the congregations and communities in the United States, which have never been required to do more than meet minimal laws of incorporation. At the same time, however, the American communities had no local pre-modern models to follow. They brought precedents with them from their countries of origin, but these were rapidly abandoned as 'foreign' to the American spirit. The newcomers embraced the common constitutional styles of the American colonies and later the United States.

Finally, in Israel, the secularism of the socialist pioneers and others outside the 'religious' camp led to the adoption of modern constitutional norms even where there was no external pressure to do so. There modernization is manifested in the constitutions of the Jewish neighbourhoods in Jerusalem and Jaffa and the *moshavot* (agricultural settlements) of the late nineteenth century. Originally, those constitutions were either continuations of traditional documents or modernized modifications of them. By the period of the Second *Aliya* (turn of the century) and particularly after the First World War, a new Zionist tradition of basic laws and foundation documents – which divorced or substantially separated 'religion' and 'state' – became the norm. These culminated in the foundation documents and basic laws of the state of Israel, which reflect both that separation and ambivalence towards it.

It can easily be seen how certain concepts, customs, and terminology were derived from historic Jewish political practice. Examples include scheduling elections to communal office during the intermediate days of the Sukkot or Passover and the use of traditional Hebrew terms to designate constitutional offices, institutions, or activities. These were adopted by those who constructed the modern documents without much attention at first, then translated into the local vernacular, and

- finally, in many cases, eliminated in favour of local, non-Jewish custom.
2. Certain basic elements, however, have persisted into the contemporary period. For example, the consensual basis of the constitutional documents was maintained without alteration. The structure was, however, redefined at specific times and in particular places as is shown by the varying uses of terms such as *brit* (covenant) and *askama* (ordinance) or their vernacular equivalents. One may point as well to the division of authority and powers among the three domains (*ketarim*) of *Torah* (God's teaching), *malkhut* (civil rule), and *kehunah* (priesthood).<sup>27</sup> In general, the diffusion of functional authority and powers and at least some formal means of checks and balances are common to all these documents.
  3. Major adaptations are evident everywhere, either because governments required them or because Jews absorbed notions from the surrounding society.
  4. The modernization process was universal; no Jewish community or organization avoided it. Even *haredi* (ultra-Orthodox) institutions have had to adopt modern constitutions to be recognized, although, of course, they have tried to preserve many traditional Jewish terms and concepts. Perhaps the major exception to this rule was the Hasidic world, where new constitutional customs appeared in conventional form but, in fact, represented radical breaks with tradition by combining the three *ketarim* in the person of the charismatic leader, the *rebbe*. Although it is a departure from past practice, the Hasidic constitutions do not reflect the spirit of modernism either.
  5. Almost all the constitutional documents include some material specific to the community or organization. For instance, the eighteenth- and early nineteenth-century constitutions of congregations in New Orleans, Louisiana, and Charleston, South Carolina, provide for granting or withholding membership to prostitutes and former prostitutes. In a different vein, American congregations have recently had to deal with the consequences of intermarriage including the presence of significant numbers of non-Jews and their children in the congregation. These issues find expression in constitutions which try to define the rights, obligations, and opportunities for members and their children who are not *halakhically* Jewish.



6. Throughout all of these documents one finds certain fundamental principles of Jewish life expressed or implied, most especially the need for Jewish unity and mutual responsibility.

### The Constitutional Documents as a Learning Device

Conventional wisdom views constitutional documents as essentially dry, technical, and uninteresting. Even the members of the research teams, however, have been surprised to discover how useful they are in pedagogical settings. Comparative study of these documents is like holding up a mirror of the Jewish condition or, perhaps more accurately, a series of photographs taken over the lifetime of communities recording similarities and changes. As such, the documents have enormous fascination for those who encounter them. Obviously, the more piquant elements have a certain additional attraction, but even statements of basic principles and practices have interest. It is possible to learn about the Jewish political tradition and its various adaptations through the study of constitutional documents. Such learning can go on at an academic or a popular level with equally useful results.

### Notes

- 1 At the time of his death, Professor Elazar had almost completed revision of the body of the paper but not the notes. Michael Brown has endeavored to complete the revisions to the text. There remain some gaps in the notes.
- 2 Simon Federbusch, *Mishpat Ha-Melukhah Be-Yisrael* (Jerusalem: Mosad Harav Kook, 5712–1952). On *mishpat ha-melukhah*, see S. Yavin, *Mehkarim be-Toldot Yisrael ve-Artzo* (Jerusalem: M. Newman, 1960), pp. 226–93; Y. Blidstein, *'Ekronot Mediniyim BeMishnat HaRamban* (Ramat Gan: Bar-Ilan University Press, 1983), *passim*.
- 3 Daniel J. Elazar and Stuart A. Cohen, *The Jewish Polity: Jewish Political Organization From Biblical Times to the Present* (Bloomington: Indiana University Press, 1985).
- 4 Josephus Flavius, "On the Polity Settled by Moses," in his *Antiquities of the Jews*, William Whiston, trans. (Manchester: R. Mipos, n.d.).
- 5 George Foot Moore, *Judaism in the First Centuries of the Christian Era: The Age of the Tannaim* (Cambridge, MA: Harvard University Press, 1932);

- Louis Finkelstein, *Jewish Self-Government in the Middle Ages* (New York: Jewish Theological Seminary, 1924); and *idem*, *The Pharisees: Their Origin and Their Philosophy* (Cambridge, MA: Harvard University Press, 1929).
- 6 Moses Mendelssohn, *Jerusalem: A Treatise on Ecclesiastical Authority and Judaism* (London: Longman, 1838).
  - 7 On the history of Reform Judaism, see Sylvan David Schwartzman, *Reform Judaism in the Making* (New York: Union of American Hebrew Congregations, 1970); W. Gunther Plaut, *The Growth of Reform Judaism: American and European Sources Until 1948* (New York: World Union for Progressive Judaism, 1965).
  - 8 Amnon Rubenstein, "The Struggle Over a Bill of Rights for Israel," in *Constitutionalism: The Israeli and American Experiences*, Daniel J. Elazar, ed. (Lanham, MD: University Press of America, and Jerusalem: Jerusalem Center for Public Affairs, 1990), pp. 139–42; Amos Shapira, "The Israeli Supreme Court and Human Rights," in *Constitutionalism*, Elazar, pp. 133–37.
  - 9 *The Constitution of the State of Israel, 1996–5756*, with an introduction by Daniel J. Elazar (Jerusalem: Jerusalem Center for Public Affairs, 1996).
  - 10 Daniel J. Elazar, "A Constitutional View of Jewish History," *Judaism* 10 (summer 1961): 256–64; *idem*, "The Pursuit of Community: Selections from the Literature of Jewish Public Affairs, 1965–66," *American Jewish Year Book* 68 (1967); and *idem*, "The Rediscovered Polity: Selections from the Literature of Jewish Public Affairs, 1967–68," *American Jewish Year Book*, 70 (1969): 172–239.
  - 11 Daniel J. Elazar, Jonathan Sarna, and Rela Geffen Monson, eds., *A Double Bond: The Constitutional Documents of American Jewry* (Jerusalem: Jerusalem Center for Public Affairs, and Lanham, MD: University Press of America, 1992).
  - 12 Vincent Ostrom, *A Political Theory of the Compound Republic* (Lincoln: University of Nebraska Press, 1987); and *idem*, "A Computational-Conceptual Logic for Federal Systems of Governance," in *Constitutional Design and Power-Sharing in the Post-Modern Epoch*, Daniel J. Elazar, ed. (Jerusalem: Jerusalem Center for Public Affairs, 1991, and Lanham, MD: University Press of America), pp. 3–21.
  - 13 Keith G. Banting and Richard Simeon, eds., *Redesigning the State: the Politics of Constitutional Change* (London: Macmillan, 1986).
  - 14 Rabbi Judah ben Barzillai HaBargeloni, *Sefer HaShtarot*, reprinted in Jerusalem by Defus: Offset HaOmanim, 1967.
  - 15 On oligarchic rule in Eastern Europe, see Michael Stanislavsky, *The Transformation of Jewish Society in Russia, 1825–1855* (Philadelphia: Jewish Publication Society of America, 1983).

## 32 The Setting

- 16 *Jewish Polity*, "Epoch XIII," pp. 207–57.
- 17 Phylliss Cohen Albert, *The Modernization of French Jewry: Consistory and Community in the Nineteenth Century* (Hanover, NH: Brandeis University Press, 1977).
- 18 Stuart A. Cohen, *English Zionists and British Jews: The Communal Politics of Anglo-Jewry: 1895–1920* (Princeton: Princeton University Press, 1982).
- 19 Daniel J. Elazar, *People and Polity: The Organizational Dynamics of World Jewry* (Detroit: Wayne State University Press, 1989).
- 20 On the *ketarim*, see Elazar, *People and Polity*, especially, pp. 27–29; Elazar and Cohen, *Jewish Polity*; Stuart A. Cohen, "The Concept of the Three Ketarim: Its Place in Jewish Political Thought," *AJS Review* 9 (spring 1984): 27–54.
- 21 These were developed in the Workshop on the Study and Teaching of the Jewish Political Tradition of the Jerusalem Center for Public Affairs at its initial meeting in 1981 and subsequently refined.
- 22 "Constitutional Documents of Modern and Contemporary Jewish Communities," *Jewish Political Studies Review* 8 (fall 1996).
- 23 Daniel J. Elazar and Harold M. Waller, *Maintaining Consensus: The Canadian Jewish Polity in the Postwar World* (Jerusalem: Jerusalem Center for Public Affairs, 1990, and Lanham, MD: University Press of America); and Elazar, *People and Polity*, chap. 11, "Jewries of the British Commonwealth," pp. 234–61.
- 24 Elazar and Cohen, *Jewish Polity*, and Elazar, "Constitutional View."
- 25 Y.A. Lattes, "The New Status of the Italian Jewish Community," *Jerusalem Letter* 103 (1988); *idem*, "The Organizational Framework of the Jewish Communities in Italy," *Jewish Political Studies Review* 5 (1993); and *idem*, "The Constitutional Documents of the Italian Jewish Community," *Jewish Political Studies Review* 8 (1996).
- 26 *Ibid.*
- 27 Elazar and Cohen, *Jewish Polity*; and Stuart A. Cohen, *The Three Crowns: Structures of Communal Discourse in Early Rabbinic Society* (Cambridge: Cambridge University Press, 1990).

# 'Do Justice to Us!' Jews and the Constitution of Canada

LORRAINE EISENSTAT WEINRIB

## Introduction

In 1906, the tiny Jewish community in Canada asked national legislators for the opportunity to be "good citizens."<sup>1</sup> Parliament had legislation under consideration to mandate Sunday Sabbath observance. Jews pleaded for a policy flexible enough to allow them to keep their own Sabbath without disadvantage. Simple words expressed the essence of the request: 'Do justice to us' according to the standards of other civilized, Christian countries.<sup>2</sup> This plea for justice, equal citizenship, and civilized standards proved futile. "Alien immigrants," came the reply, could not enjoy the benefits of their new country without being subject to the rules that, as a Christian community, Canada saw fit to lay down.<sup>3</sup>

In the years since this cold and ungenerous response, a massive transformation has taken place in Canada's constitutional order. The country has now amended its Constitution to incorporate the very attributes of justice for which the Jewish community pleaded some eighty years earlier. In 1906, however, legislatures acting within their allotted jurisdiction were subject to no overarching laws, bound by no substantive principles, and constrained by no guarantees of individual or collective rights. There was no recourse to the courts. By 1985, the Supreme Court of Canada could easily invalidate the legislation produced by the 1906 debate as a breach of constitutional rights. This transformation, viewed against the background of the Jewish community's unsuccessful plea for 'justice' in the political forum in 1906, is the subject of this paper.

In the early twentieth century, the Canadian constitutional order possessed none of the touchstones to which Americans could turn in

attempting to secure freedom of religion and its non-establishment. There was no foundational, revolutionary, written constitution committed to the creation or recognition of a Canadian 'people' or 'nation' or to citizenship. More specifically, there was no formal rejection of establishment, no benchmark value of separation of church and state, no strong idea of equality of religions, and no acceptance of the equal status of non-believers. (Indeed, the Canadian Constitution still requires governments to aid religion in some ways, and Canadian legislatures have chosen to support religious life in other ways, as well.)<sup>4</sup> On the other hand, because Canada remained in a quasi-colonial relationship within the British Empire, it developed ideas of religious toleration. In addition, demographic diversity inhibited the creation of a common identity. Thus, unlike other countries which tended to absorb and privilege (and some would say, debase) the symbols, ceremonies, and practices of the religion of the majority, Canada did not cultivate a new nationality with its own 'civil religion.'

Canada has had its share of controversies involving religious minorities. Each episode has exerted pressure on its self-understanding as a nation. The trend has been to supplant a historical understanding that promoted the well-being of the early Protestant and Catholic population with a more pluralist and secular approach. The new dispensation offers inclusion and affirmation to Canada's increasingly diverse population and to the original inhabitants of British North America, the First Nations.

Although liberal democracy presupposes freedom of individual conscience and thought, democratic governments often fail to respect the religious convictions and ways of life of members of minority religions. Majority rule automatically accommodates the majority's religious values and stipulations to the point that legislators often remain unaware of the phenomenon. Not only do they fail to register the cogency of claims to well-being put forward by those whose lives are organized around divergent religious practices, they regard these as extraordinary. This reaction is a result of the majority's religious values constituting both the basic moral framework and, by extension, the terms of social ordering. It should not be surprising, therefore, that the minority's beliefs and practices appear inadequate, inferior, primitive, illegitimate, foreign, and even threatening. This dynamic is intensified when the majority religion maintains a negative attitude to a specific minority religion, not merely as different and inferior, but as a negation of what is deeply understood to be divinely ordained. And while the

openness of the political process makes it possible for minorities to seek to change public opinion, the success of small, albeit strongly committed, minorities is often limited.

Being largely the product of political consensus, the legal system is often as conservative as its political masters. But opposing pressures can be brought to bear. The claims of politically powerless religious groups often turn up in courts of law as resistance to enforcement of regulatory or penal laws or as challenges to discriminatory rules.<sup>5</sup> A legal system built upon the sovereignty of the legislature leaves judges ill equipped to offer much relief. The public conscience frequently registers the merits of the claims, nonetheless. Over time, a more expansive commitment to individual freedom and equality can emerge from a handful of unconnected, unsuccessful claims. In 1982, such a pattern contributed to extensive constitutional change with the adoption of the *Canadian Charter of Rights and Freedoms*.<sup>6</sup>

The Jewish experience during this transition is noteworthy because, until recently, Jews constituted Canada's largest non-Christian minority. The treatment of Jewish claims over the years provides a case study by which to measure the development of religious tolerance and equality. Jewish sensitivities, beliefs, and practices are sufficiently distinctive to clash with a wide range of legal standards that reflect, promote, or privilege norms based on Christianity. In contrast to the Jehovah's Witnesses, for example, who have raised a limited number of issues of religious freedom, and these mostly in times of repression, Jewish religious practice creates a variety of conflicts in relatively liberal contexts. Christian assumptions of superiority over Judaism have induced public authorities in Canada – as in many countries with overwhelmingly Christian populations – to hesitate to take what, from the Jewish vantage point, appear to be small steps to accommodate a different, but fully legitimate, way of life. Historical patterns of anti-semitic thinking, moreover, have often worked to transform relatively minor accommodations into perceived threats to the moral, social, and economic order.

The scourge of antisemitism has contributed to acute Jewish sensitivity to subtle, as well as blatant, forms of discrimination in both private dealings and public policy. As a result, Canadian Jewish organizations, like their counterparts elsewhere, have worked over the years for a broad range of legal and constitutional changes. To their credit, these organizations have not seen their goal in parochial terms. They have made impressive efforts to have the desired standards of freedom

and equality extended to other beleaguered and less fortunate minorities. There is no doubt that Canada's constitutional transformation has been good for Canadian Jews. In large measure, however, the transformation reflects the wider appeal of the constitutional principles long advocated by the Jewish community as indispensable components of liberal democracy.

### Nineteenth-Century Beginnings

In the new Dominion of Canada in 1867, religious diversity meant diversity among Christian denominations. For more than a century afterwards, public policy tended to ignore the concerns of the small non-Christian population. The Canadian Constitution had to undergo considerable change before it could provide wider protection from state disadvantage or preferences based on religion. This transformation was caused by the increasing diversity of the Canadian population after the Second World War and the domestic affirmation of a commitment to human rights at the international level in the postwar world. The Jewish community made a distinguished contribution to this change, and for Jews, as well as other religious minorities, the result has been fuller engagement with Canadian society. One can appreciate the revolutionary quality of the change by recalling the roots onto which postwar values were grafted.

The *Constitution Act*, legislated by the United Kingdom in 1867, established Canada as a Dominion with a constitution "similar in principle" to that of Britain. Canada acquired a parliamentary system in which legislatures were supreme, and it inherited British common law protection of individual freedom and inviolability. What was new, however, was a federal system designed to alleviate the difficulties experienced by the French Catholic and English Protestant populations in sharing a common political space.<sup>7</sup> To accomplish that goal, legislative jurisdiction was divided between a national government and multiple provincial governments. What Canada needed and what federalism facilitated was a political system that separated the French and English to the extent possible, while at the same time realizing the anticipated economic potential and defence advantages of a large country rich in natural resources.<sup>8</sup>

The challenge posed by diverse ethnicities, religions, and languages was thus a foundational concern for the new Canadian Consti-

tutional order. The *Constitution Act, 1867* addressed this diversity in a number of ways.<sup>9</sup> Of prime importance was the creation of the province of Quebec, which allowed the French Catholic population to function as a majority within a sub-unit of a nation with a Protestant majority. In addition, the French and English languages were given specific protections in the political process, in the courts at the federal level, and in the new province of Quebec.<sup>10</sup> The *Act* also provided constitutional protection of existing legal rights to minority religious education in the newly created provinces (Protestants in Quebec, Catholics elsewhere).<sup>11</sup> Out of respect for the religious diversity of the population – and unlike England itself – the new nation did not establish any church at the national or provincial level.<sup>12</sup>

Under Canadian federalism, matters most relevant to social life fell exclusively to provincial jurisdiction, as did charitable institutions and the solemnization of marriage. Much of the substance of religious life was left to the churches or, if taken up in state regulation, to the provinces. With the exception of the education rights of the 'official' religious minority, the expectation was that the interlocking minority arrangements would work as a political check on the majority in religious matters. In other words, the Protestant majority in all provinces except Quebec would safeguard the position of the Protestant minority in Quebec, while the Catholic majority in Quebec would serve this function for the Catholic minority in Ontario and elsewhere.<sup>13</sup> The *Act* made no provision for non-Christian religious communities or for non-believers.

The *Constitution Act, 1867* then, neither established a state church nor provided assurance of separation of church and state. For decades, the provinces assumed responsibility for the moral framework of daily life, including observance of Sunday as the Sabbath. The Judicial Committee of the British Privy Council, then Canada's highest appellate court, upset this understanding in an unexpected ruling in 1903. It determined that the regulation of morality in its sectarian manifestations fell not to the provinces but to the federal government.<sup>14</sup> That decision set in motion an intense political battle for a new Sunday observance statute for the whole country. It also created the opportunity for public reflection on the place of Jews within Canadian society.

Canada's Parliament took responsibility for Sunday observance legislation somewhat reluctantly. Nonetheless, its deliberations on the *Lord's Day Act, 1906* a federal bill to replace the invalidated provincial laws, made abundantly clear that concern for religious diversity did



not extend beyond the Christian religion.<sup>15</sup> The bill contained a variety of prohibitions against Sunday economic activity (retail sale, ordinary work, or business) as well as amusements and recreation (excursions, games for prizes, public amusement places that charged admissions). The undeniable purpose was to promote Sunday observance as a Christian holy day of rest, precluding not only ordinary economic activity but also the "pursuit of pleasure."<sup>16</sup> This statute was not conceived as secular day-of-rest legislation for Canadian workers, a type of enactment that came later.

The Jewish community sought a restricted statutory exemption from the new federal law. The aim was to permit its members to observe their own Sabbath rest from work on Friday night and Saturday and to escape the requirement of observing the Christian Sabbath as well.<sup>17</sup> The proposal was to permit Sunday work by those who observed Saturday as a day of rest subject to two conditions: no disturbance of the Sunday observance of others and no opening of places of business to the public.<sup>18</sup> The intention was to facilitate observance of the Jewish Sabbath without any negative impact on Christian Sunday observance.

The Jewish community submission took the form of a plea for justice. Its major argument was to stress the ground common to the general prohibition, which it did not oppose, and the proposed exemption. Both Christians and Jews observed one day of rest in seven based on religious belief, a pattern established by the Divine law given to the Jewish people. Also shared was the need to earn a living for which a six-day work week was necessary. The imposition of a statutory prohibition against Sunday work, when added to observance of the Saturday Sabbath, would take Jewish workers below a subsistence level and result in increased poverty, perhaps rendering some Jews a burden on the general community. On the other hand, the exemption would facilitate both religious observance and economic self-sufficiency, while causing no diminution of the majority's enjoyment of its preferred day of rest. The exemption buttressed the purposes of the statute for all, while diminishing the burdens on a small minority.

The Jewish community also advanced other arguments. It invoked legal principles, making reference to the common law notions of autonomy and use of property. It demonstrated that the proposed exemption, while new to Canada, was used elsewhere, notably in the United States and in England, countries regarded as models of civilized, Christian nationhood. The submission called on Canada to main-

tain its recognition of the full civil, political, and religious liberty of its Jewish citizens. And it cautioned lawmakers that a good citizen was one who followed his own religious beliefs: the legal system should neither tempt citizens away from, nor impose financial burdens upon adherence to the fundamental tenets of these beliefs.

The submission, of course, could not make any claims to 'rights'; it could only endorse the 'right to ask' the majority to grant 'justice' to the minority.<sup>19</sup> The House of Commons Select Committee struck to consider and report on the bill, accepted the exemption as proposed by a vote of 5 to 4. After an intense debate, however, the House of Commons defeated the amendment to the *Act* by a vote of 79 to 57, ignoring both party lines and provincial allegiances.<sup>20</sup>

The defeat of the proposed exemption marked the victory of the politically astute Lord's Day Alliance of Canada, the Canadian arm of an international movement that enjoyed the support of all the major Protestant denominations as well as the encouragement of the Roman Catholic Church. The Alliance had drafted and promoted the *Lord's Day Act* bill, which had not been a matter of priority for the government, and it successfully battled the exemption. Rev. J.G. Shearer, General Secretary of the Alliance, filed a statement with the Select Committee on behalf of his organization, painting a distinctive picture of the Jewish proposal as well as the larger economic, political, and social questions engaged.<sup>21</sup>

Shearer also saw the merit of appealing to generally accepted principles, but his arguments constructed the Christian viewpoint as the generic and universal basis for public policy. He thus had to deny that the prime purpose of the *Lord's Day Act, 1906* as its name and subject matter indicated, was to impose prohibitions in support of Christian religious observance. What it offered, he claimed, was a general 'liberty of rest' for all; that is, the liberty to observe Sunday, or any other day, as a religious or secular day of rest. He did concede that creating this general *liberty* required the state to *impose* a general 'law of rest' on all persons; that imposition was liberating, however, and not coercive, because the choice of Sunday as the universal rest day reflected common practice. The plea for exemption by the Jewish community, styled as a claim for justice, was to be seen as nothing less than an attempt to 'rob' the majority of its 'Sunday privileges.'<sup>22</sup>

The Alliance discounted the impact on minority religions as a mere 'temporal disability' taking the form of financial loss or disadvantage. Because democracy works to produce a blend of majoritarian rule, cus-

tom, and tradition, no importance was attached to these effects. What validity could there be to complaints against a bill that merely continued an age-old imposition, levied only a reasonable and expected cost for religious non-conformity, and imposed that cost only on a small minority? The Alliance identified the Jewish petition – styled as a plea for religious freedom and economic self-sufficiency – as an effort to avoid the natural burdens of the politically powerless.

The Lord's Day Alliance went further. It argued that the proposed exemption would diminish the desired effect of the general prohibition. Its analysis depended on misreading the conditions stipulated: there were to be no disturbance of Sunday religious observance and no businesses open to the public. This deliberate misreading enabled Shearer to present a small minority as a powerful, even threatening, social phenomenon. He foresaw the beneficiaries of the exemption swelling to a mass of Sunday transgressors capable of undermining the rest day altogether, not only in their own communities, but in society at large, across all business undertakings. The explanation for this transformation was as simple as it was unsavoury: 'greed.' Under the general prohibition of Sunday labour, all would engage in some kind of rest on Sunday, and the very few who would bear the disadvantage of having an additional day without income would do so fairly and justly. But given the opportunity to shelter under the exemption, many more would 'claim the right.' Seeking neither their religious liberty (since they were merely doing 'what they say they think they ought') nor the good of the many, but merely their own economic advantage, they would 'rob' the majority of its Sunday rest.

Antisemitic stereotypes hover just below the surface of the text: the just suffering of Jews for their rejection of Christianity, on the one hand, and the aggressively appetitive Jew seeking to secure more than a fair share of labour market participation, on the other. Shearer decried the limited exemption sought by the Jewish community as a competitive advantage for an ever-enlarging number of workers and factory owners.

Rev. Shearer also dismissed any general principle that would warrant exemptions from laws of general application to adherents of minority faiths. Such a concession would, he pointed out, lend legitimacy to a Mormon claim to exemption from the marriage laws. He thus deflected attention from the relevant context – the margins of the commercial marketplace – to much more contentious ground: the sanctity of marriage, the place of women in Canadian society, the structure

of the family, and sexuality.<sup>23</sup> By associating the sabbatarian exemption with an exemption from the marriage laws, the Alliance equated the enforced imposition of a particular Christian religious practice upon non-Christians with the enforcement of monogamy, a basic institution of Western society.

By raising the example of plural marriage, Rev. Shearer tried to undermine the general appeal to common ground embodied in the submission from the Jewish community. In effect, he accused those who sought the exemption of departing from a general principle to which they subscribed. There was, of course, no such hypocrisy. Christians and Saturday Sabbath observers could easily agree on a full ban on polygamy, whether for religious or secular reasons, without bridging their differences regarding an exemption from a sectarian religious law.

The message to religious minorities was clear: public policy would seek no common economic, moral, or social ground. There should be no attempt to create a more inclusive idea of Canadian society, even when the benefits to the few vastly outweighed the cost to the many. The price of religious difference would be borne by the minority.

The Jewish community's submission to the parliamentary committee stressed that its plea for justice was to federal politicians, not to religious authorities. While one would expect a religiously infused response from religious groups, such as that put forward by the Roman Catholic Archbishops of Canada,<sup>24</sup> the hope was that the Canadian political system encompassed a religiously neutral public space apart from the personal religious beliefs of those who held political power. To elected politicians, therefore, the Jewish community appealed as citizens, seeking a secular response.

The debate on the bill in the House of Commons disappointed that expectation. The federal Minister of Justice, Charles Fitzpatrick, sounded a stark note of exclusion for religious minorities early in the debate in these words:

[It] is not desirable for us to be too considerate of the wishes of alien immigrants who, ... while they are obtaining the benefits which this country is affording them, will not be subjected to undue hardship if they are obliged, in the public interests, to obey any rules which we, as a Christian community, find it necessary to lay down for the observance of the Sunday.<sup>25</sup>

The speeches of A.B. Aylesworth, who succeeded Fitzpatrick, made no

attempt to minimize the Christian purpose of the legislation. Working with others in leading the opposition to the exemption, he went so far as to state that Christianity was part of the law of Canada.<sup>26</sup>

The political genesis of the *Lord's Day Act, 1906* reveals that, in the early part of the century, those charged with the creation of public policy felt little need and less desire to respect minority religious practices within Canadian society. Members of these minorities were not considered stakeholders in the common good. The legislative responsibility was to realize the will of the majority, consistent with tradition. The costs entailed in being different were to be borne by those who were different. The Canadian polity could act upon ideas of general liberty for the majority within its religious heritage, while resisting any claim to equal religious liberty by members of other religious faiths.

Consistent with this understanding of the Canadian political order, Parliament expanded the means by which provinces could opt out of Sunday observance legislation.<sup>27</sup> This unusual arrangement enabled provinces to legislate exemptions from federal criminal prohibitions. It sidestepped the Privy Council ruling that allocated morality-based law to the exclusive jurisdiction of the national Parliament, and at the same time, it undermined one of the federal powers: to provide uniform criminal law for the whole country. As initially drafted, the bill permitted the continued operation of provincial statutes regulating Sunday observance. The final version went further. It permitted provincial exemption from the *Lord's Day Act, 1906* in legislation enacted later, as well. Thus the federal structure of the country allowed provincial majorities to be substituted for national majorities on questions considered amenable to local preferences. And that was the only response to diversity.

At this point in the development of Canadian constitutionalism, rights discourse was exceedingly feeble. It meant the right to petition politicians to do what was supported by principle and justice. At best, it offered recourse to majoritarian politics under the federal distribution of powers. Many decades would pass before the Canadian legal system included what the Jewish community had asked for in 1906: a generic guarantee of freedom of religion as an individual or group entitlement, enforceable in courts of law.

It might appear from the high status of provincial rights, that is, provincial authority to set the terms of social ordering, that choices taken by the provinces to protect minorities would prevail. This, however, was not the way the *Constitution Act, 1867* worked in practice. At about the same time as the ill-fated request for exemption to the fed-

eral Sunday observance legislation, the Quebec legislature was enacting a law designed to make Jewish children eligible for minority religious education entitlements under the *Constitution Act, 1867*.<sup>28</sup> In Quebec, these entitlements formed the backbone of the public school system, made up of Catholic schools for the majority and separate Protestant schools for the minority. As the Jewish population grew, its members sought a place in the public school system, as well. In an imaginative overture, the Quebec government decided to define them as Protestants and thus included among those entitled to education at public expense under the Constitution. While this approach was unorthodox in religious and historical terms, it realized one of the purposes of the constitutional assurances at an abstract level by providing members of a minority religion access to the resources of the publicly funded system to which they contributed as taxpayers.

The Judicial Committee of Canada's highest appellate court, the Privy Council, rejected the Quebec arrangement. Their lordships first discounted the express terms of the legislation, concluding that the legislature could not define the word 'Protestant' in the statute to include Jews. 'Protestant' could only mean Christians who were 'non-Catholics.'<sup>29</sup> Regarding the constitutional question, the Privy Council ruled that reading the word 'Protestant' to include Jews would constitute an infringement of rights enjoyed by Protestants at Confederation.<sup>30</sup> As manifested in the deliberations on the ill-fated exemption to the *Lord's Day Act, 1906* the costs of difference were to be paid by the minority, and any concession to that minority was to be registered as a loss to the majority.<sup>31</sup> In this ruling, the Privy Council shared Rev. Shearer's rejection of a claim to respect all religions as equally deserving. It merely moved the sentiment from the context of regulation of morality to the choice of beneficiaries of expenditures from the public purse.

As these controversies illustrate, before the advent of the 1982 *Charter*, the Canadian Constitution did not serve all members of the Canadian polity. The Constitution responded to diversity by offering federalism, but federalism did not provide protection from majoritarian political processes. It merely divided Canada into smaller and varied majoritarian units, alleviating, but not solving, the problem of minority interests. A few specific constitutional protections were afforded to Protestants and Catholics as minorities. A small number of judges in the Supreme Court of Canada, Canada's highest court by mid-century, devised imaginative ways to protect minority interests. They did so primarily by developing the common law and reading the

division of powers to allot questions of political and religious liberty to the federal level of government, which was less prone to incursions. Their efforts provided some relief but did not protect against federal encroachment upon minority interests. In any event, this approach ultimately succumbed to a more expansive view of provincial authority.<sup>32</sup>

The resistance of the *Constitution Act, 1867* to the evolving demands of an increasingly more diverse Canadian society demonstrated the need for constitutional change. Those demands ultimately facilitated the adoption of the *Canadian Charter of Rights and Freedoms* in 1982.

## The Charter of Rights and Freedoms

### *The Charter's Adoption*

In the aftermath of the Second World War, Canadian politicians began to consider the adoption of a constitutional bill of rights. The defeat of ideas of racial and religious superiority in Europe led Canadians to look at improving the Canadian legal system. The 1948 *Universal Declaration of Human Rights* and the 1953 *European Convention on Human Rights* provided models for the recognition of constitutional rights.<sup>33</sup> The transformation of the legal system necessary to entrench rights was, however, revolutionary.

The organized Jewish community worked for the adoption of legal instruments promoting liberty and equality for all Canadians.<sup>34</sup> In November 1980, the Canadian Jewish Congress submitted a brief and made a presentation to the Joint Committee of the Senate and House of Commons considering the draft text of the *Charter*. This submission, which marked the culmination of a program of study under the direction of Maxwell Cohen, supported the adoption of the *Charter*. It accepted the judicial enforcement of rights guarantees as an expansion of the responsibility to enforce the limited language and religion provisions of the *Constitution Act, 1867* and quasi-constitutional statutory instruments. Voicing the concerns of the Jewish community as well as more general interests, the submission recommended: a narrower basis on which to limit rights; express mention of the continuing validity of laws prohibiting hate promotion; stronger democratic rights; stronger protection of personal dignity and autonomy; stronger rights for the accused, including a right to legal assistance and legal aid; appropriate legal arrangements for prosecuting war criminals in Canada; immediate implementation of equality guarantees, without reliance on quota

systems; wider entitlement to education in Canada's official languages; clear judicial enforcement authority for breach of *Charter* guarantees; and stipulation of the narrowest of departures from *Charter* rights in situations of emergency, subject to legislative oversight. Many of these recommendations were based on Canada's obligations under legal instruments created under the auspices of the United Nations. While not all of this agenda was ultimately successful, much of it found its way into the *Charter's* text or its later interpretation. Over the years, the Canadian Jewish Congress also supported rights protection at the international level.

These national aspirations contrasted with the manifold restrictions and disadvantages that Jews had experienced in many facets of Canadian life, fed by extensive antisemitism in private dealings as well as in the application of public policy.<sup>35</sup> Slowly, the Canadian legal system responded, first at the provincial level with statutory human rights codes prohibiting discrimination in employment, accommodation, and public services and later at the federal level as well.<sup>36</sup> What remained outstanding was the commitment to these values in the Constitution as the supreme law of Canada.

The *Canadian Charter of Rights and Freedoms*, 1982 secured that change. One of its purposes was to bring the legal system into conformity with Canada's international obligations in respect to the protection of liberty and equality, as urged by the Canadian Jewish Congress. Taking as models the postwar rights-protecting instruments at both the national and international level, the *Charter* did not simply provide an array of rights guarantees. It stipulated the exclusive basis on which the state might limit such guarantees, namely "such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society."

Those who drafted the guarantee and limitation clause did so with the intention of providing a narrower basis for limitation than might otherwise have emerged as a product of judicial interpretation or political preference.<sup>37</sup> In this, the drafters took up the submission of the Canadian Jewish Congress, as well as submissions from representatives of other minority groups, which had condemned as overly broad an earlier formulation of the limitation clause. The final formula restricted the courts to consideration of the values that inform the rights themselves: freedom and democracy.<sup>38</sup>

This narrow and principled statement of limitation reflects the idea that the rights-protecting agenda cannot be adequately served in the context of the active, multicultural, pluralist state, by simply negating



governmental power in favour of guaranteed rights and freedoms. In this model, the state is not invariably the enemy of freedom and equality. Rather, the *Charter* envisages that the state may, on occasion, act at the expense of individual rights to realize the social and political norms that underwrite liberal democracy as a coherent system of rights-protection. Other provisions of the *Charter* affirm and expand this idea in a manner consistent with the postwar approach to rights-protection. Accordingly, *Charter* interpretation recognizes that one enjoys *Charter* guarantees not merely as a deracinated individual but as an equal citizen of a liberal democracy, having multi-layered social identities including ties to given and chosen communities.<sup>39</sup> The interpretation of the *Charter* in this way has, as the discussion in the next sections illustrate, developed in a number of cases in which there was Jewish involvement.

#### *Early Interpretation of the Charter: The Sunday Closing Cases*

The *Charter's* affirmation of the postwar structure of rights-protection seemed to bode well for the protection of minority religions. In one of the first major *Charter* judgements, the Supreme Court considered a challenge to the constitutionality of the *Lord's Day Act* of 1906. As a preliminary matter, the Court interpreted the guarantee of freedom of religion and conscience set out in section 2(a) of the *Charter* as protecting the right to hold religious beliefs, to declare those beliefs openly, and to manifest belief by "worship and practice or by teaching and dissemination."<sup>40</sup> Moreover, the Court discarded the ideas that had animated the enactment of the *Lord's Day Act, 1906*, in effect declaring an end to the propensity of Canadian legislatures to regard Christianity as both generic and normative in the formation of public policy.

Stressing the particular vulnerability of religious minorities to "the tyranny of the majority," Justice Dickson, later Chief Justice of Canada, invoked the provision of the *Charter* that mandates interpretation consistent with the "preservation and enhancement of the multicultural heritage of Canadians."<sup>41</sup> In one remarkable portion of the *Big M Drug Mart Limited* judgement of 1985, he stated:

If I were a Jew or a Sabbatarian or a Muslim, the practice of my religion at least implies my right to work on a Sunday if I wish. It seems to me that any law purely religious in purpose, which denies me that right, must surely infringe my religious freedom.<sup>42</sup>

Having thus established the equal status of all religions in Canada, Justice Dickson went on to include non-believers within the *Charter's* range of protection; the state would breach the *Charter* by imposing religious belief or practice on the non-believer, just as it did in imposing one religion on everyone or religiously motivated observance on a willing believer.<sup>43</sup> In other words, religion and conscience were free only to the extent that the state abstained from imposing religious orthodoxy.

The Supreme Court of Canada combined its generous reading of the *Charter's* freedom of religion guarantee with a minimalist reading of its preamble. This introductory clause, added in the final days of the *Charter's* formulation, states that "Canada is founded upon principles that recognize the supremacy of God."<sup>44</sup> Such a preambular statement usually carries relatively minimal interpretative weight. Nevertheless, in *Big M Drug Mart*, Justice Dickson did not simply ignore it; he neutralized it by emphasizing its ecumenical character.<sup>45</sup> So read, it maintained the *Charter's* guarantee of freedom of belief of all kinds as well as freedom from belief.

The Court carried this liberal view of the guarantee even further. It rejected the government's claims that the *Lord's Day Act, 1906* constituted a 'justified limitation' on the right to freedom of religion. Dickson identified the government's arguments, based on tradition, efficiency, and expediency, as the very factors that demonstrated breach of the right. Were these considerations also to stand as the values justifying that breach, the *Charter* would offer no effective protection.<sup>46</sup> He noted that

[what] may appear good and true to a majoritarian religious group, or to the state acting at their behest, may not, for religious reasons, be imposed upon citizens who take a contrary view. The *Charter* safeguards religious minorities from the threat of 'the tyranny of the majority.'<sup>47</sup>

The Court's analysis coincided with the approach that the Jewish community had advocated during the 1906 debate. Of particular significance was the strong equality component recognized within the guarantee of freedom of religion. So read, the *Charter* offered more than an admonition that the religious majority tolerate minorities: it signalled constitutional inclusion of non-Christians within the 'Canadian People.' In fact, the Court's analysis rejected every argument that supported adoption of the *Lord's Day Act, 1906* without a minority

exemption. It set aside the idea that the majority can order society to suit its religious beliefs and practices. It identified the purpose of the *Act* as impermissibly sectarian. It recognized that the *Act* imposed an economic burden on those who observed Saturday as their Sabbath. Finally, and perhaps most importantly, the court labeled majoritarian preferences, convenience, and tradition as illegitimate bases on which to abridge *Charter* guarantees to freedom of religion.

The demise of the *Lord's Day Act, 1906* in the Supreme Court of Canada ended the story that began with its tumultuous birth. The vindication of the Jewish community's conceptualization of political justice, however, remains incomplete. The Court made no reference to the terms of the 1906 debate, although it did provide extensive general historical and legal background to many other aspects of the case. What would have been gained by such reference? In legal terms, an account of the range of arguments that led to the rejection of the exemption, identified as inimical to the *Charter*, might have clarified the area for later judges. In political terms, some reference to the way that history came full circle on this issue would have revealed to the current generation of Canadians how much Canadian society has matured in its ideas of citizenship, multiculturalism, and the place of religion in public and private life.

The emphatic repudiation of social and political ordering based on the majority's religion-centred inclinations in *Big M Drug Mart* proved short-lived. The Supreme Court had, in fact, deferred consideration of the validity of secular day-of-rest laws enacted by the provinces. *Edwards Books and Art Limited* raised this question in a challenge to Ontario's *Retail Business Holidays Act*, which established Sunday as a common rest day for retail workers.<sup>48</sup> The Court had no difficulty sustaining the legislation in its general application to workers in accordance with the *Big M Drug Mart* ruling because the statute was clearly secular in purpose.

The Court then turned to the more difficult question, the impact of the legislation on those who observed a day other than Sunday as their Sabbath. Here the Court had to come to terms with the very arguments engaged in the 1906 debate. It first considered the effect of the legislation on retail operators who observed Sunday as their Sabbath. The easy conclusion was that the legislation had the beneficial effect of removing any burden that this religious practice would produce in a business environment where stores were permitted to open seven days a week. Turning next to the effect on Saturday Sabbath observers, it

found that the *Act* had a deleterious effect: it cut back retail operations by one day a week by adding the Sunday closing to the Saturday Sabbath observance.<sup>49</sup> In other words, the disadvantage formerly experienced by all Sabbath observers in an unregulated market place continued to apply only to Saturday Sabbath observers under legislation that mandated Sunday closing.

Speaking for a majority of the Court, Chief Justice Dickson identified this burden as an infringement on the freedom of religion of Saturday Sabbath observers. It followed that the *Charter* imposed an obligation on governments to include exemptions for those deleteriously affected by Sunday closing laws. The 1906 petition to the Parliament of Canada asked for an exemption as a matter of 'justice'; now it was being elevated into a right by the Supreme Court of Canada under the *Charter*. The dissenting justices, however, recognized no such right. In comments reminiscent of the 1906 position of the Lord's Day Alliance, they dismissed any disadvantage as self-assumed, merely economic, or insubstantial.<sup>50</sup>

Dickson took his analysis further. He pointed out that, in the highly competitive retail sector of the economy, the burden was so significant as to amount to pressure to abandon observance of one's religious commitments. Even in the absence of an evidentiary record on the point, he concluded that consumers in minority communities would suffer impairment of their freedom of religion, as well. These findings reflected his view that freedom of religion under the *Charter* afforded protection against all unequal burdens imposed by the state whether direct or indirect, intentional or unintentional, foreseeable or unforeseeable.<sup>51</sup>

The Court's determination that the state must right the wrong done to Saturday Sabbath observers under Sunday closing laws did not resolve all the issues raised in *Edwards Books*. Unlike its ill-fated federal counterpart, the impugned Ontario legislation did offer an exemption, although not one based on religious observance. Small retailers were permitted to open on Sunday if they had closed their stores on Friday evening and Saturday for whatever reason.<sup>52</sup> For larger retailers, the general prohibition against Sunday operation prevailed. The Court turned to consider whether this qualified exemption sufficiently mitigated the deleterious effect of the Sunday closing law.

The exemption extended only to stores that had seven or fewer employees and less than 5,000 square feet in service to the public. Nortown Foods, the litigant raising the arguments of the Saturday Sabbath-observing retailer, did not satisfy these conditions. Its owners

claimed that only an unconditional exemption to all Saturday Sabbath observers would meet the *Charter's* requirements.

The Supreme Court sustained the qualified exemption, abandoning the clarity and confidence of its analysis in the earlier stages of its reasons for judgement in *Big M Drug Mart*. It saw the claims of retailers who observed a Saturday Sabbath clearly. It had more difficulty determining how to deal with the religious and other claims of retail employees.

Of great concern was the projected impact upon retail workers, particularly female employees, of a constitutionally mandated extension of the statutory exemption to more numerous and larger retail operations. Such workers were exceptionally vulnerable to the expectations and demands of their employers, because most of them were not unionized and tended to be dependent on part-time work and not highly skilled. The judges were apprehensive that a ruling in favour of a full religious exemption might increase the number of retail workers compelled to work on Sunday, their Sabbath, contrary to their wishes.<sup>53</sup> The Chief Justice noted that the larger retailers asserting the invalidity of the exemption were economically more secure than their employees. He expressed the view that it would be inappropriate to interpret and apply the *Charter* as an "instrument of better situated individuals to roll back legislation which has as its object the improvement of the condition of less advantaged people."<sup>54</sup> Alarmed that the general quality of the pause day would suffer as a result of a full religious exemption, some of the judges took the position further. This was a departure from the assumption that *Charter*-protected rights and freedoms take precedence over other elements of social ordering.

The Court's assumptions about the economic security of the retail operations that failed to qualify for the exemption bear examination. Comparatively larger floor space or number of employees does not invariably translate into economic security for a retail operation. Retailers who are members of and catering to a particular community must be situated in that community, so that the choice of rental space may not reflect the ordinary priority given to the size of the store. The number of employees is also not a clear indication of economic security, because some retail enterprises, such as those that sell religious artifacts, shoes, or specialty foods may require an unusually high ratio of sales clerks to customers. In any event, some data about these stores would have given substance to the Court's speculation. The Court might also have considered other ways to capture its disinclination to

extend the exemption to more economically secure retail operations: refusing to recognize a claim to freedom of religion by a corporation, for example, or by a corporation whose shareholders did not actually run the retail operation on a day-to-day basis.

The Court's concern for vulnerable retail workers was also an abstract and speculative exercise. The Court lacked critical data about the operation of the existing statutory exemption: the number of employees affected, for example, or the extent to which the stores in question employed Saturday Sabbath observers, a very important question given the analysis it adopted. It also lacked projections of the number of larger retailers that would become entitled to the exemption.

The judges deemed it unseemly for retailers to hire their 'co-religionists' to reduce the problem of coordinating days off work,<sup>55</sup> thereby rendering it impossible for workers who observed Saturday as their Sabbath to choose their employment to match their religious observance. And these workers were already at a disadvantage in a marketplace where the majority observed Sunday as their Sabbath! Although the Court's approach was first to identify disadvantages, it considered neither the precarious rights nor the particular vulnerability of these employees. Nor did it consider the likelihood that retail operations closed on Saturday would hire 'co-religionists' who preferred that day off for irreproachable reasons: to have experienced staff on Sunday, the busiest retail day for these stores, for example, or to enjoy the benefits of retail transactions carried out by staff with the linguistic, cultural and/or religious knowledge required for the specific merchandise or customers.

Since the Court did not examine these obvious questions with any rigour, it is not surprising that it did not raise more difficult ones, such as: To what degree are the retail operations owned by observant Jews carried on by members of an extended family in order to provide employment consistent with the strictures of religious practice? What is the place of retail undertakings in a religious community whose members would, because of Sabbath and holiday observance, have a restricted range of options for employment generally? If family businesses and self-employment are chosen to enable observant Jews to live their lives more easily, then the restrictive conditions on the exemption, which reward expansion of retail premises or increase in the number of employees with the loss of the exemption, take on new significance.

Arguments in favour of a full Sabbatarian exemption for all retail operations proved unattractive to the majority of the Court for another

reason. The judges were reluctant to create the need for "state conducted inquiries into religious belief," which would, they said, expose members of minority religious groups to a judicial or quasi-judicial testing of the "most personal and private beliefs."<sup>56</sup> The assumption was that establishing eligibility for the exemption would require the state to engage in an intrusive procedure to ascertain that each applicant held certain beliefs as a matter of personal and private conviction. The judges extrapolated from the Christian religion as the norm, neglecting to consider that other religions might set other measures of orthodoxy, such as long-standing, public, communal religious practice. The Court's failure to devise – or simply require the province to instate – an acceptable, yet reliable, exemption process is perplexing. Material before the Court indicated that provinces other than Ontario offered exemptions that did not require "state conducted inquiries into religious belief."<sup>57</sup> The majority concluded that it was permissible to 'balance' the religious protections of members of a religious group. This meant that it was permissible to privilege the interests of the 'many' (that is, the smaller retailers who would continue to enjoy the exemption) against those of the 'few' (the larger retailers) when the distributional criterion was a neutral factor such as the size of one's business (understood as a proxy for economic well-being) and not a personal characteristic protected by the Constitution. Thus the Court proved unable to free itself entirely from the majoritarian calculus.

A strong element of the *Edwards Books* analysis was a concern to preserve, to the extent possible, the common enjoyment of a day of rest from retail work for family visits and activities and recreation. In a case following *Big M Drug Mart*, one might have expected more emphasis on the religious and communal character of Jewish and Seventh Day Adventist Sabbath observance as a *Charter* value standing above other preferences in social and economic ordering, and on the *Charter* directive to preserve and promote the multicultural heritage of Canadians. One would also have expected more acute and better documented consideration of the relative vulnerabilities of retail operations and their employees. Also appropriate would have been closer consideration of the existing statutes that protect employees' rights to Sabbath observance in the employment context.

In dissent, Madam Justice Wilson took up these questions and concluded that the exemption was impermissibly narrow and unacceptable under the *Charter*. Her preference would have been to extend the exemption to include all retail operations that closed on Friday night

and Saturday for religious observance. At the core of her judgement was the recognition that freedom of religion has priority over public policy concerns lacking constitutional stature.

Wilson also departed from her colleagues in respect to the operation of the statute. She believed that there was insufficient evidence to conclude that a full religious exemption would undermine the statutory purpose of providing a common pause day. She noted that before it had restricted itself to the retail sector, the legislature had considered a much broader pause day that would have included industrial workers. Accordingly, she attached less importance to the general nature of the common pause day than the judges in the majority.<sup>58</sup> If the legislature wanted to elevate the importance of a common day for family activities and recreational pursuits, then it would have to extend these benefits more broadly. She also expressed doubt that retailers would claim the exemption to secure an economic advantage rather than to accommodate their religious observance.

The most compelling aspect of Justice Wilson's reasoning was her recognition of *Charter* protection for group, as well as individual, rights. In her view, the impugned Ontario statute impermissibly recognized only some members as entitled to a 'group right' and allowed the state "to introduce an invidious distinction into the group and sever the religious and cultural tie that binds them together." She sought an interpretation of the *Charter* consistent with the preservation and enhancement of the multicultural heritage of Canadians,<sup>59</sup> that is, the protection of "the freedom of religion of all those who close on Saturdays for religious reasons."<sup>60</sup>

Justice Wilson rejected the view that extending the exemption would privilege the privileged at the expense of the vulnerable. Citing *Big M Drug Mart*, she stated that

[a] truly free society is one which can accommodate a wide variety of beliefs, diversity of tastes and pursuits, customs and codes of conduct. A free society is one which aims at equality with respect to the enjoyment of the fundamental freedoms and I say this without any reliance upon section 15 (the equality guarantee) of the *Charter*. Freedom must surely be found in respect for the inherent dignity and the inviolable rights of the human person.<sup>61</sup>

The cases that followed *Edwards Books* on issues of particular interest to the Jewish community are not fully reconcilable. The difficulty



derives to a large extent from the incompatibility of the approaches set down in the first two major cases: the deeply normative and egalitarian approach set down in *Big M Drug Mart* and the more flexible, deferential approach to public policy applied in *Edwards Books*. These two cases provided a rather intractable set of precedents for subsequent deliberation. The divisions on the Court are similar to those outlined earlier in the debate on the *Lord's Day Act, 1906*: the tension between established and traditional social ordering, fostering, or at least consistent with, the majority's religious inclinations and a more egalitarian and multicultural approach to the formulation of public policy in respect to the work week, family time, and recreational activities.

The *Charter* litigation challenging provincial Sunday closing laws created sufficient instability in government policy and its enforcement that open Sunday shopping is now the rule in Ontario and most other provinces. This change marks the demise of Rev. Shearer's vision of Canadian society, a society dedicated under pain of criminal sanction to Sunday as a religious day and not a day for the pursuit of pleasure. It exemplifies how legal arguments and judicial determinations, even if they do not fully recognize minority interests, can alter the political landscape dramatically.

#### *Religion in the Schools: Building a Model of Equal Citizenship*

In the wake of *Big M Drug Mart*, early *Charter* cases rid the public schools of long-standing laws mandating Christian prayer. These cases, in which Jewish individuals and organizations participated, determined that religious exercises mandated by statute coerced students to perform religious acts (that is, prayer and readings of religious texts) contrary to the *Charter*. Of particular interest against the background of the *Lord's Day Act, 1906* controversy, is the fact that the statutes mandating classroom prayer offered full exemptions permitting children to leave the classroom upon request. This feature did not save the legislation. On the contrary, the judges concluded that these exemptions stigmatized minority students who, as young persons, would be especially vulnerable to being singled out from their peers during the course of the regular school day.<sup>62</sup>

A similar conclusion followed in cases challenging religious instruction in the schools. The Ontario Court of Appeal concluded that the legislation under review had as its purpose the indoctrination of Christian religious precepts in order to inculcate morality. Following

*Big M Drug Mart*, the court concluded that this religious purpose constituted a breach of freedom of religion. Again, the availability of exemptions did not excuse the breach of *Charter* rights.<sup>63</sup> Central to the analysis was the interpretative clause contained in the *Charter* that mandates the "preservation and enhancement of the multicultural heritage of Canadians." Also significant was the express rejection of arguments that had prevailed in the original debate on the federal *Lord's Day Act, 1906*: that the majority may use political power to impose its religious practices on society generally; that the minority is only minimally burdened by such coercive imposition of religiously motivated legislation; that the minority must understand and pay the cost of its non-conformity; and that part of the social and moral cohesion of Canadian society rests on its adherence to Christian belief and practice.

In invalidating the legislation mandating sectarian prayer and religious instruction in the public school system, the courts were attempting to make the classroom equally welcoming to children of all faiths. As noted earlier, the school systems in various provinces include separate schools that offer religious exercises and instruction to the minority Christian denomination as protected by law in 1867. When the Supreme Court analyzed the relationship between the religious accommodations made at the time of Confederation and in the *Charter* (*Reference Re Bill 30*), it determined that religious education rights conferred at Confederation were immune from *Charter* scrutiny.<sup>64</sup> This meant that the provision of state-funded, public, separate schools for the historical religious minority posed no breach of *Charter* rights.

In a later case, the Court deliberated on this question in response to a claim brought by several parties, including Jews, which asserted that *Charter* rights required the province of Ontario to extend funding to private religious schools, including Jewish schools. The claim was two-fold: that Jewish parochial education was necessary to teach Jewish children the languages, history, and religious practice of their heritage (freedom of religion claim); and that the province must now provide to unprotected Christian minorities and the Jewish claimants what the 1867 arrangements compelled it to provide for the protected Catholic minority (equality claim). The Court dismissed both submissions with reference to its earlier decision.<sup>65</sup>

The majority of the Court did not deal with the *Charter* issue in the last case, basing its conclusion on the view that the Confederation compromise could not form the basis for a *Charter* claim to equal benefit. The one judge who did consider the *Charter* claim expressed the view

that funding should not be extended to the private Jewish parochial schools, because such funding would entice some of the Jewish students from the public schools. In her view, this would undermine the important function these minority students serve in the public school system: providing the other students with a more diverse student body. This analysis seems misconceived. It fails to regard the Jewish children as ends in themselves and seems to regard Jewish students as outsiders who best serve the multicultural aspiration of Canada by adding an exotic element to the mix of students in its secular education system. It would have been more consistent with the *Charter* to see young Jews as free and equal citizens who deserve an education shaped to their own aspirations, including a heritage that mandates knowledge of their own religious traditions, values, and languages.

These cases privilege the historical components of the Constitution over its conceptual unity. They fail to acknowledge that values of fairness and equality prompted the 1867 arrangements, that these arrangements do not stand merely as anomalous historical compromises. These judgements, moreover, ignore the idea of a living constitution that through interpretation grows to a fuller realization of its basic principles, a notion recently endorsed by a unanimous bench in the *Quebec Secession Reference* (released 20 August 1998).

#### *Laws Against Hate Promotion: Building a Civil Society*

As noted, the Supreme Court of Canada has not been open to constitutional claims to financial support for Jewish parochial education. It has, however, been assiduous in protecting Canadian society from anti-semitism. The Court has been receptive to the postwar value structure of the *Charter*, particularly the idea of equal citizenship in a multicultural state.

In the landmark case of *R. v. Keegstra*, the Court confirmed the validity of postwar federal legislation that established as a criminal offence the public, wilful promotion of hatred against an identifiable group (a "section of the public distinguished by colour, race, religion or ethnic origin").<sup>66</sup> While the Court conceded that this prohibition breached Mr. Keegstra's freedom to vilify Jews in public, it sustained the legislative provision as a justified limit on his right. The reasoning was loyal to the approach in *Big M Drug Mart* and the values of the international rights-protecting instruments that were the *Charter's* models. It also marks a dramatic departure from the more absolutist

protection of speech rights in the United States. Earlier, the Canadian Jewish Congress had proposed language that would have precluded *Charter* challenge to hate-promotion laws, but only in this judgement did it gain that objective. The Congress, B'nai Brith, and other intervenors urged the Court to consider the idea that it was permissible for Parliament to defend the public space of a free and democratic society from promotion of hatred against members of that society. Such an encroachment on freedom of expression would enable all members of society to live their lives with self-esteem, particularly in respect to the personal identities shaped by one's birth community. Equality values linked the *Charter's* guarantee and limitation clauses so as to enable minorities to enjoy full and equal membership in Canadian society.

On a later occasion, the Court affirmed respect for the multi-layered identity of citizens in the school system. As in *Keegstra*, the values in question were freedom of speech and the rights of religious minorities as equal citizens in a multicultural society. The Court determined that the province of New Brunswick was permitted to remove an elementary school teacher from the classroom, because knowledge that their teacher spent his time outside the school day involved in anti-semitic and neo-Nazi activities had the effect of poisoning the learning environment of his students.<sup>67</sup>

Some *Charter* cases have produced unexpected results disappointing to the Jewish community and others concerned about hate propaganda. For example, in *R. v. Zundel*, [1992] 2 S.C.R. 731, 95 D.L.R. (4th) 202, the Supreme Court invalidated a provision of the *Criminal Code* that had been the basis for prosecuting Canada's premier Holocaust denier, Ernst Zundel. In a private prosecution, Zundel was charged with the offence of knowingly spreading false news. (Use of the hate promotion law used against Keegstra required the permission of the Attorney General of Ontario, which was not forthcoming.) In invalidating the false news offence (as a breach of freedom of expression), the Court's disposition of the case was not inconsistent with its landmark ruling in *Keegstra*. Nonetheless, the failure to convict Zundel proved a bitter disappointment to those who saw the bigger picture; they regarded Keegstra's teaching of antisemitic texts and attitudes in an Alberta high school as a minor irritant compared to Zundel's skilful and widespread production, dissemination, and distribution of anti-semitic materials. In 2001, the Canadian Human Rights Commission ruled that, based on the content of his website, Zundel was in breach of the prohibition against promoting hatred.

*Prosecution of War Criminals*

One of the deepest ironies in the application of the *Charter* has been its inhibiting effect upon the prosecution of war criminals who have made their homes in Canada. Those who drafted section 11(g) of the *Charter*, supported at the time by the Canadian Jewish Congress, provided that a prosecution could proceed not only under Canadian or international law but also in circumstances where the acts committed were “criminal according to the general principles of law recognized by the community of nations.” In effect, the *Charter* acknowledged a basic common law of mankind incorporating crimes against humanity into the Canadian justice system, even though the acts had not taken place on Canadian soil.

In Canada’s major war crimes case, *R. v. Finta*, however, the accused successfully argued that *Charter* protections developed in the general criminal law context should apply to his case, as well.<sup>68</sup> The Supreme Court required the Crown to prove a high degree of awareness of moral blameworthiness on the part of the accused. That meant proof that Finta had subjectively understood at the time that the acts he committed – unlawful confinement, robbery, kidnaping, and manslaughter – constituted crimes against humanity. Writing for the majority, Justice Cory ruled that such proof was lacking. The facts established only that the accused had robbed Jewish civilians of their valuables as part of a process that ended in their deportation. The majority of the Court held that pervasive dissemination of false information and propaganda in the war context raised a reasonable doubt as to whether the accused was sufficiently aware of the cruel and barbarous quality of his actions.<sup>69</sup> This ruling made it unlikely that Canada ever would be able to prosecute war criminals successfully.

*Outstanding Issues*

The cases already discussed have highlighted the resolution of some of the major long-standing issues of interest to the Jewish community; others remain unresolved. For example, the precedents do not provide a clear indication as to whether the *Charter* permits a Canadian legislature to give legal significance to those private acts of individuals which have significance under religious law. Both the federal and Ontario governments have passed laws to alleviate the plight of Jewish women who are unable to remarry under Jewish law because their former

spouses refuse to grant a Jewish divorce.<sup>70</sup> Such women often cede strong claims to assets of the marriage or to custody of the children in order to secure a divorce. The statutory provisions redress this vulnerability, making removal of all impediments to a spouse's ability to remarry in her faith a condition of access to the courts. The sanction does not attach to the failure to provide the divorce under Jewish law. In effect, however, it requires the husband to provide the divorce as a precondition to his ability to engage the Canadian courts on his own behalf in divorce, custody, or support proceedings. To date, these provisions have not had to undergo *Charter* scrutiny, and opinion is divided on whether, in purpose and/or effect, they constitute a breach of freedom of religion.

A recent incident revives the clash between the pre-*Charter* idea of Canadian constitutionalism as a federal system that mediates differences in identity through federal-provincial arrangements, and the *Charter's* idea of citizens enjoying equal rights. The issue was the application of Quebec's labeling laws to Passover foods.<sup>71</sup> When these imported foods failed to comply with provincial laws requiring French-language labels, enforcement officials ordered them off store shelves. The order seemed excessive to many; the goods were on the market for a relatively short time, in limited quantities, with appeal to a very restricted clientele and therefore did not undermine the operation of the labeling laws in any significant way. As a result, label translation was prohibitively expensive. It remains an open question whether the *Charter's* protection of freedom of religion would sustain a challenge to the enforcement of the language laws against foodstuffs required for particular religious holidays or for general *kashrut* observance.

(On the political side, this incident has prompted allegations that the leaders of Quebec's separatist government were, at best, unconcerned that the incident might unsettle the Jewish population, which greeted the separatist election victory in 1976 with a mass exodus from the province. Like the other 'cultural communities' in the province, the Jewish community has not warmed to separatism despite efforts to recast Quebec nationalism as territorial and pluralist rather than ethnic. In the immediate aftermath of the knife-edge defeat of the sovereignty option in the 1995 Quebec referendum, the then provincial premier stressed the high support for separatism among francophones and attributed the disappointing outcome to "money and ethnics." The comments prompted his immediate resignation. This incident illustrates in microcosm how Canada's constitutional project moves for-

ward into the postwar world of multicultural commitment to equal human dignity carrying history on its back.)

## Conclusion

The *Charter* has had the effect of eliminating from the Canadian legal system some of the laws that imposed major burdens on Jews who were for many years the largest non-Christian minority in the country. In addition, the *Charter* has identified antisemitism as inimical to the value structure of Canadian society. It was the desire for such change that prompted the organized Jewish community to support the *Charter* and to work for its adoption as a strong and clear statement of freedom and equality. And it is for this reason that the leading Jewish community organizations have supported *Charter* litigation, both as principal participants and as intervenors. In fact, the Canadian Jewish Congress and the League for Human Rights of B'nai B'rith have been among the most frequent intervenors in *Charter* cases. The Canadian Holocaust Remembrance Association has participated in a number of cases, as well. But Jewish interest has not been limited to direct benefit or disadvantage.

While one would expect the Jewish community to bring cases in its interest to the courts and to seek permission to participate in cases of particular interest to Jews in Canada, it is noteworthy that Jewish organizations have also endeavoured to advance liberty and equality generally. For example, Jewish groups have worked to extend application of the hate promotion laws to other vilified groups and to promote anti-discrimination. In an intervention in the Supreme Court, the Canadian Jewish Congress supported gays and lesbians in their claims to equality under Canadian human rights statutes. In a written brief and oral submissions to the Court, counsel representing the Congress noted that some Jews are homosexuals, recalled the status as victims shared by Jews and homosexuals under the Nazis, and made reference to the historical record that demonstrates that in times of pervasive stereotyping and prejudice, it is the courts, not the representative legislatures, that must illuminate the path of justice.<sup>72</sup>

At the beginning of the twentieth century, Jews were unable to sustain their claims for 'justice' in a polity that understood itself as Christian and equated Christianity with moral order and general well-being. Today, in contrast, the vision of political justice invoked by that

plea has become part of the supreme law of Canada. Jews are free to participate fully in social and political life. They are also able to lay claim to *Charter* rights to full and equal membership in Canadian society and to take a leadership role in promoting these values for all Canadians.

This is a story in which Canada and Canadian Jewry can take great pride. The Jewish community's commitment to the values of liberty and equality, as well as its security within the new constitutional order, have allowed it to strive to extend the reach of Canadian constitutional justice to include other disadvantaged groups. While there have been disappointments in the efforts to sustain the new values, one need only recall the 1906 *Lord's Day Act* debate to appreciate the revolutionary nature of the change that has occurred. Open political dialogue, access to the courts, and a firm foundation in law now offer a framework in which all members of the Canadian polity can seek justice – to work together to achieve the best that multicultural liberal democracy has to offer.

## Notes

- 1 A.M.C. Waterman, "The Lord's Day in a Secular Society: A Historical Comment on the Canadian Lord's Day Act of 1906," *Canadian Journal of Theology* 9 (1965): 116, n.15. Prime Minister Laurier and the leader of the Opposition supported the exemption. (Ontario Law Reform Commission Report on Sunday Observance Legislation, 1970 – hereinafter, Sunday Observance Report – p. 50).
- 2 *Ibid.*
- 3 Sunday Observance Report, pp. 58-59. *Bowman v. Secular Society, Limited* (1917) A.C. 406 departed from earlier cases in stating that Christianity is not part of the law of England. See D.A. Schmeiser, *Civil Liberties in Canada* (Toronto: Oxford University Press, 1964), p. 55, n.3.
- 4 See L.E. Weinrib, "The Religious Clauses: Reading the Lesson," *Supreme Court Law Review* 8 (1986): 507.
- 5 See D.J. Doyle, "Religious Freedom in Canada," *Journal of Church and State* 26 (1984): 413-35; William Kaplan, "The Supreme Court of Canada and the Protection of Minority Dissent: The Case of the Jehovah's Witnesses," *University of New Brunswick Law Journal* 39 (1990): 65; T.R. Berger, *Fragile Freedoms: Human Rights and Dissent in Canada* (Toronto: Irwin Publishing, 1982), pp. 163-90.



## 62 The Setting

- 6 See I.A. Hunter, "The Origin, Development and Interpretation of Human Rights Legislation," in *The Practice of Freedom*, R.St.J. Macdonald and J.P. Humphrey, eds. (Toronto: Butterworths, 1979), pp. 77–110; J.W. St.G. Walker, 'Race,' *Rights and the Law in the Supreme Court of Canada: Historical Case Studies* (Toronto and Waterloo: The Osgoode Society for Canadian Legal History and Wilfrid Laurier University Press, 1997), especially chapter 4.
- 7 For the pre-Confederation background, see D.J. Doyle, "Religious Freedom," pp. 414–17.
- 8 P.B. Waite, *The Life and Times of Confederation, 1864–1867* (Toronto: University of Toronto Press, 1962), pp. 35ff; A.R.M. Lower, *From Colony to Nation* (Toronto: McClelland and Stewart Ltd., 1977), pp. 319ff; F.H. Underhill, *The Image of Confederation* (Toronto: Canadian Broadcasting Corporation, 1964), pp. 47ff; G. Stevenson, *Unfulfilled Union*, 3rd ed. (Toronto: Gage Publishing, 1989), pp. 20ff; A. Silver, *The French-Canadian Idea of Confederation, 1864–1900* (Toronto: University of Toronto Press, 1982), pp. 33ff.
- 9 The *Constitution Act, 1867* is the name, since 1982, of the *British North America Act, 1867*, U.K., 30 and 31 Vict. c.3.
- 10 *Constitution Act, 1867*, s. 133.
- 11 S. 93. The importance of these guarantees is revealed by the provision of unusual enforcement mechanisms: an appeal to the executive branch of the federal government and, in the event of continuing provincial intransigence, remedial legislative authority in the Parliament of Canada.
- 12 To a great extent, for the provinces of New Brunswick, Nova Scotia, and Prince Edward Island, the Church of England served as the established Church, possibly until the late nineteenth century. See D.A. Schmeiser, *Civil Liberties in Canada* (Toronto: Oxford University Press, 1964), pp. 67–70. Under French rule, the Roman Catholic Church was the established Church of what later became the province of Quebec in 1867, but its power derived from convention, rather than law, after passage of the *Quebec Act* of 1774 marking the defeat of the French by the British. See Berger, *Fragile Freedoms*, p. 163. In 1835, Lower Canada (Quebec) passed legislation eliminating *de jure* discrimination against Jews: (1832) 1 Vict. IV c.57. Upper Canada, which became Ontario in 1867, moved from the predominance of the Church of England to a more modern approach with the enactment of the *Freedom of Worship Act* (1850–1), 14 and 15 Vict. c.175, which provided for the "free exercise and enjoyment of Religious Profession and Worship, without discrimination or preference" for all Her Majesty's subjects, subject to restrictions pertaining to acts of licentiousness or acts contrary to peace and safety. The *Jewish Relief Act* of 1845 freed Jewish citizens from

many civil disabilities in England: 8 and 9 Vict. c.52. See also 21 and 22 Vict. c.48.

- 13 See P.B. Waite, ed., *The Confederation Debates in the Province of Canada, 1865* (Toronto: McClelland and Stewart, 1963), pp. 99–100. No such arrangement was made in Nova Scotia, British Columbia, or Prince Edward Island. Modified application was made in Manitoba, Alberta, and Saskatchewan in their constituent legislation. See I. Cotler, "Freedom of Assembly, Association, Conscience and Religion," in *The Canadian Charter of Rights and Freedoms: Commentary*, W.S. Tarnopolsky and G.-A. Beaudoin, eds. (Toronto: Carswell, 1982), p. 189. Recent constitutional amendments have released the school systems of Newfoundland and Quebec from the requirement of religious organization.
- 14 See *A.G. Ontario v. Hamilton Street Railway Company*, [1903] A.C. 524 (invalidating Ontario legislation entitled *An Act to prevent the Profanation of the Lord's Day*). See also *Henry Birks and Sons v. Montreal*, [1955] S.C.R. 799 (invalidating a Quebec law prohibiting retail sales on Catholic holy days). The Privy Council assigned laws having to do with morality to the exclusive jurisdiction of the Parliament of Canada as criminal law.
- 15 For the view that it was Rev. J.G. Shearer, a Presbyterian minister, acting as founder and first General Secretary of the Lord's Day Alliance of Canada and as editor of the *Lord's Day Advocate*, whose efforts pushed the federal government to act, see Waterman, "The Lord's Day," p. 108.
- 16 Sunday Observance Report, p. 43. This was the characterization of the purpose of the Bill by the Minister of Justice, Charles Fitzpatrick.
- 17 The much smaller Seventh Day Adventist Church had proposed a wider exemption. Sunday Observance Report, p. 48.
- 18 The exemption clause as proposed read:

Notwithstanding anything herein contained whoever conscientiously and habitually observes the seventh day of the week as the Sabbath and actually refrains from work and labour on that day, shall not be subject to prosecution for performing work or labour on the first day of the week, provided that such work or labour does not disturb other persons in the observance of the first day of the week as holy time, and that the place where the same is performed is not open for traffic on that day ... . Sunday Observance Report, p. 48.

- 19 Select Committee on *Bill No. 12, Respecting the Lord's Day* – Minutes of Evidence, 27 April 1906, p. 187.
- 20 See above, n.1.

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- 21 Sunday Observance Report, p. 40.
- 22 *Ibid.*, pp. 48–49.
- 23 Canada’s prohibition against polygamy reflects the influence of U.S. law, in particular the suppression of the practice among Mormons in the late nineteenth century.
- 24 Sunday Observance Report, p. 49. The support of the Catholic Church for the *Lord’s Day Act, 1906* came after members of Parliament had described the bill as a Protestant effort to coerce Roman Catholic Quebec. Contemporary newspaper and magazine reports suggest that there was little public support for the bill and that the Lord’s Day Alliance was itself a minority interest. Sunday Observance Report, pp. 46–47, 42–43; Waterman, “The Lord’s Day,” pp. 112–14. See also, n.15 above.
- 25 Sunday Observance Report, p. 44, citing 74 H.C. Deb. (Can.) at cols. 1010–1011; 1014. Mr Fitzpatrick made these comments in moving second reading, on April 5, 1906. The idea was that Jews (despite the fact that they held Canadian citizenship) were foreigners because of their membership in the Jewish nation. Such membership meant that they reserved their ultimate loyalty to a future Jewish state and were thus incapable of the allegiance held by British subjects to their King.
- 26 See above, n.3.
- 27 In *Civil Liberties*, n.12, pp. 103–10, Schmeiser identifies this clause as unique and analyzes its constitutionality. In *Lord’s Day Alliance of Canada v. A.G. Man.* (1925) A.C. 384 at 391, the Privy Council expressed the view that the concession to provincial legislative jurisdiction allowed for the diversity in “circumstances, usages and predominant religious beliefs of the people” in the various provinces. At the time, the Minister of Justice remarked that the change was consistent with the notion of provincial rights.
- 28 The dispensation in the *Constitution Act, 1867* noted earlier produced public school systems that operated on a religious basis. In effect, this meant that the majority religious groups in the provinces of Ontario and Quebec established public school systems suitable to their beliefs and practices. In addition, the *Constitution Act, 1867* required that the provinces provide separate school systems for the religious minority in conformity with legal entitlements enjoyed before Confederation.
- 29 *Hirsch v. Protestant Board of School Commissioners of Montreal*, [1928] A.C. 200, p. 213.
- 30 *Ibid.*, p. 214.
- 31 While this ruling did not prevent a number of provinces from providing funding for Jewish separate schools in other ways, it did lay to rest any claim to statutory extension of the constitutional entitlement to unprotected religious minorities.

- 32 These cases involved what, under the *Charter*, would be interpreted as rights to freedom of expression, religion, association, and the press. The cases and the demise of this 'implied bill of rights' jurisprudence are presented in P. Hogg, *Constitutional Law of Canada*, loose-leaf edition (Toronto: Carswell, 1997, release 2), ch. 31, 31.4(c), pp. 31–10, 31–13. See also L.E. Weinrib, "The Supreme Court of Canada in the Age of Rights," *Canadian Bar Review* 80 (2001): 699.
- 33 I. Brownlie, *Basic Documents on Human Rights*, 3rd ed. (Oxford: Oxford University Press, 1992).
- 34 B.P. Elman, "The Constitutionalization of Multiculturalism in Canada: The Jewish Legal Role," in *Multiculturalism, Jews, and Identities in Canada*, H. Adelman and J.H. Simpson, eds. (Jerusalem: The Magnes Press, 1996), pp. 69–94. I am indebted to Professor Joseph Magnet, Faculty of Law, University of Ottawa, who was Special Advisor to the Cohen Committee, for providing me with a copy of the written submission.
- 35 For accounts of the history of antisemitism in Canada see A. Davies, ed., *Antisemitism in Canada: History and Interpretation* (Waterloo: Wilfrid Laurier University Press, 1992); G. Tulchinsky, *Taking Root: The Origins of the Canadian Jewish Community* (Toronto: Stoddart, 1997); J.W. St.G. Walker, 'Race,' pp. 182ff; I. Abella and H. Troper, *None Is Too Many: Canada and the Jews of Europe 1933–1948* (Toronto: Lester & Orpen Denys, 1983); E. Delisle, *The Traitor and the Jew: Anti-Semitism and the Delirium of Extremist Right-wing Nationalism in French Canada from 1929–1939* (Montreal: R. Davies, 1993); and I. Abella, "The Making of a Chief Justice: Bora Laskin, The Early Years," *Law Society Gazette* 24 (1990): 191.
- 36 See references in n.6 above, and W.S. Tarnopolsky, *The Canadian Bill of Rights*, 2nd ed., rev. (Toronto: McClelland and Stewart Ltd., 1975), ch. 1, and I.A. Hunter, "Interpretation of Human Rights Legislation," pp. 77–110.
- 37 See L.E. Weinrib, "Canada's Rights Revolution: Paradigm Lost?" *Review of Constitutional Studies* (forthcoming); J.P. Humphrey, "The Just Requirements of Morality, Public Order and the General Welfare in a Democratic Society," in *The Practice of Freedom*, R.St.J. Macdonald and J.P. Humphrey, eds., pp. 137–57.
- 38 In *R. v. Oakes*, [1986], 1 S.C.R. 103 at 136, 26 D.L.R. (4th) 200, the Supreme Court of Canada's classic statement of its approach to the guarantee and limitation clause, the values appropriate to limitation were described in this way:

The underlying values and principles of a free and democratic society are the genesis of the rights and freedoms guaranteed by the Charter and the ultimate standard against which a limit on a right

or freedom must be shown, despite its effect, to be reasonable and demonstrably justified.

- 39 At a minimum, limits on rights must be consistent with the rule of law. Any encroachment on rights must be consistent with the goal of rights-protection.
- 40 *R. v. Big M Drug Mart Ltd.*, [1985] 1 S.C.R. 295 at 336, per Dickson J. This reading marked the rejection of the Court's interpretation of the same words in the *Canadian Bill of Rights* of 1960, a federal statute, as protecting religious belief but not action flowing from that belief. See *Robertson and Rosetanni v. the Queen*, [1963] S.C.R. 651.
- 41 *Big M Drug Mart*, pp. 336–37.
- 42 *Ibid.*, p. 338.
- 43 While the *Charter's* protection of freedom of religion and conscience does not expressly countermand establishment of religion, non-establishment values are clearly engaged in the interpretation of this provision. The attitude of the Supreme Court of Canada to the establishment of a church was made clear in the *Protestant School Board* decision. Here the Supreme Court sought to distinguish between a permissible limit upon and an impermissible denial of a *Charter* right. It gave, as an example of the latter, establishment of a state church. For the state so to privilege one religion would interfere with the right to freedom of religion so pervasively as to be beyond the possibility of justification under the limitation clause. To effect such a denial of the *Charter* right, the state would have to seek recourse through the legislative override provision found in section 33 of the *Charter* or through constitutional amendment. *A.G. Quebec v. Quebec Association of Protestant School Boards*, [1984] 2 S.C.R. 66 at 88, 10 D.L.R. (4th) 321.
- 44 For an account of the political debate that culminated in including the statement in the preamble to the *Charter*, see W. Klassen, "Religion and the Nation: An Ambiguous Alliance," *University of New Brunswick Law Journal* 40 (1991): 93ff. "One of the more amusing sidelights of the battle for a Canadian constitution is the debate on the place to be assigned to God. ... [I]t was also clear that certain members of Parliament felt deeply that God might be slighted if left out of the Constitution."
- 45 *Big M Drug Mart*, p. 355.
- 46 *Ibid.*, p. 352. See John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), pp. 295ff.
- 47 *Big M Drug Mart*, p. 337.
- 48 *Edwards Books and Art Limited v. the Queen*, [1986] 2 S.C.R. 713 at p. 761. The

Chief Justice noted that it was insufficient to sustain a claim of breach of freedom of religion under the Charter for the challengers to assert that the statutory provision coincided with the tenets of a religion.

49 *Ibid.*, p. 765.

50 *Ibid.*, per Beetz J., pp. 788–89.

51 *Ibid.*, p. 759.

52 *Ibid.*, p. 748. The exemption was not expressly a religious exemption for Saturday Sabbath observers, but it served this purpose for those retailers able to come within its qualifications. Ontario enacted the legislation in this way on the advice that an express religious exemption would conflict with the exclusive federal jurisdiction in respect to religion, as criminal law over morality, and thus create a constitutional infirmity on federalism grounds. Other provinces, however, offered religious exemptions.

53 *Ibid.*, p. 773.

54 *Ibid.*, p. 779.

55 *Ibid.*, p. 777 and per La Forest J., p. 797.

56 *Ibid.*, p. 779.

57 Recall that the ill-fated exemption proposed for inclusion in the *Lord's Day Act* of 1906 offered relief in these terms: "whoever conscientiously and habitually observes the seventh day of the week as the Sabbath and actually refrains from work and labour on that day ..."

58 *Edwards Books and Art Limited v. the Queen*, p. 812.

59 *Ibid.*, pp. 808–09.

60 *Ibid.*, p. 810.

61 *Ibid.*, quoted from *Big M Drug Mart*, p. 336.

62 *Zylberberg v. Sudbury Board of Education* (1988), 52 D.L.R. (4th) 577. (Ont. C.A.)

63 *Re Corporation of the Canadian Civil Liberties Association and Minister of Education* (1990), 71 O.R. (2d) 341 (Ont. C.A.)

64 *Reference Re Bill 30, an Act to Amend the Education Act* (Ontario), [1987] 1 S.C.R. 1148, 40 D.L.R. (4th) 18.

65 *Adler v. Ontario*, [1996] 3 S.C.R. 609 per McLachlin J., pp. 718–20.

66 *R. v. Keegstra*, [1990] 3 S.C.R. 697, [1991] 2 W.W.R. 1.

67 *Ross v. New Brunswick School District No. 15*, [1996] 1 S.C.R. 825, 133 D.L.R.(4th) 1 (S.C.C.)

68 *R. v. Finta*, [1994] 1 S.C.R. 701, 112 D.L.R. (4th) 513.

69 In dissent, Justice La Forest formulated a different standard of mental awareness for war crimes or crimes against humanity. For him, it was sufficient for the prosecution to establish the mental element that under Canadian criminal law usually attaches to the offences in question:

the accused need not have known that his act, if it constitutes manslaughter or forcible confinement, amounted to an 'inhumane act' either in the legal or moral sense. One who intentionally or knowingly commits manslaughter or kidnapping would have demonstrated the mental culpability required for an inhumane act.

*Ibid.*, pp. 556–57.

- 70 *Divorce Act*, R.S.C. 1985, c. 3, s. 21.1 (2nd Supp.) and *Ontario Family Law Act*, R.S.O. 1990, s. 2 and s. 56 (5).
- 71 D. Osborne, "Quebec Wrangle Prompts a New Jewish Exodus," *The Independent* (21 May 1996), p. 9; "Language Wars: Not Kosher," *Maclean's* (22 April 1996), p. 21.
- 72 Factum of Canadian Jewish Congress, prepared by Lyle S.R. Kanee, submitted to the Supreme Court of Canada in *Vriend v. Alberta* [1998] S.C.J. No. 29 at para. 7. On file with the author.

## **PART II**

### **Analysis and Discussion**



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# Kissing Cousins: The Early History of Congregations Shearith Israel of New York City and Montreal

JAY M. EIDELMAN

New York City's Congregation Shearith Israel (Remnant of Israel), the venerable Spanish and Portuguese Synagogue, was already an old established congregation when prayers of thanksgiving for the conquest of Canada by His Majesty's forces were offered there in 1760. Not only did the conquest establish British hegemony in North America, it extended the North American Jewish community into what is now Canada. Hoping to capitalize on opportunities in the new territories, some Jewish settlers accompanied the triumphant British forces northward. By 1768, enough Jews had settled in Montreal to establish a congregation. They named it Shearith Israel, after the New York congregation from which many of them had come. The following essay is a comparison of the early histories of both congregations based primarily on their constitutional documents. The essay traces the beginnings of separate Canadian and American Jewish identities against the backdrop of political and social change in early nineteenth-century North America.<sup>1</sup>

Legend has it that New York's Congregation Shearith Israel, the mother of all North American congregations, was established in 1654 when twenty-three Jewish souls arrived in New Amsterdam from Recife, Brazil. The Jews came after 'fleeing' the Portuguese who had taken Brazil back from the Dutch. (Recent scholarship has disputed the 1654 founding date and demonstrated that the community was unstable until 1730, which explains why a synagogue was not built until that year.) The year 1654 is nevertheless significant, since the story surrounding the founding of the New York congregation established many of the myths of North America's Jewish community. Here, after all, was a group of so-called refugees escaping religious persecution, victims of the series of expulsions which included the great expulsion

from Spain in 1492. Small wonder, then, that they named their congregation, Shearith Israel (Remnant of Israel).<sup>2</sup>

The earliest constitutional documents available for the New York congregation (1728) place it within the tradition of post-expulsion Sephardi (of Iberian origin) Jewish communities such as London and Amsterdam. A fledgling community with a diverse, sometimes disobedient population needed a forceful, hierarchical form of synagogue governance. The 'Rules and Regulations' established by Shearith Israel had strong provisions against any behaviour that might sully the reputation of the new community. The third rule, for instance, stated that persons who gave "any affront or abuse, either by words or action to any person or persons within the said Sinagog [sic]" would be required to pay a fine of twenty shillings. And lest any quarrel extend beyond closed doors, the fifth regulation governed disputes among the synagogue leaders themselves empowering the disputants to appoint an 'indifferent' trustee to decide the matter.<sup>3</sup>

The early regulations also sought to obviate any difficulties arising from the arrival of indigent immigrants. If needy Jews came to New York City and demanded assistance from the synagogue, the *parnas* (president) was authorized to provide them with eight shillings per week for a period of no more than twelve weeks. After three months, the *parnas* was to "use his utmost endeavours to dispatch them [the poor] to sum othere [sic] place as soon as Possible assisting them with necessarys, for their Voyage." Aid for single persons was not to exceed forty shillings but no initial restraints were placed on aid to families. The amount would be decided by the *parnas* in consultation with his assistants. The congregation's own poor could apply to the *sedaca* (charity fund) and also would be assisted as the *parnas* and his assistants saw fit.<sup>4</sup>

Caring for the local poor was an established custom in Jewish communities throughout the world, and stipulations concerning 'poor strangers' were common to European Jewish communities. In seventeenth-century New York, self-sufficiency was a condition of Jewish settlement. In both their European and American contexts, regulations of this kind were designed to prevent Jewish communities from being overburdened with 'refugees' from poverty stricken locales. The preservation of a congregation's 'good name' with gentile authorities was undoubtedly also a factor in the creation of this sort of legislation.<sup>5</sup>

The arrival of Jews into the territory that would later become Canada was, in some ways, the opposite of the New York experience: Jews came not as refugees but as conquerors. Forbidden to settle in French

North America, the founders of Canada's permanent Jewish community came with the British forces in 1760. The most famous of these settlers was Aaron Hart, who established large holdings around Trois-Rivières. Others were attracted to the growing British merchant colony centred in Montreal, and by 1768, Jews there had their own congregation. Unfortunately, few documents survive from those first years. Considering the auspicious nature of the community's founding, we may have seen a very different set of rules there from those of other places. Researchers speculate that the earliest regulations of the Montreal synagogue copied those of synagogues in New York and London.<sup>6</sup>

The first incarnation of Montreal's Shearith Israel was short-lived. Less than a decade after its founding, life in His Majesty's American possessions was disrupted by the American Revolution, and the New York and Montreal congregations changed in dramatic ways. These transformations are reflected in constitutional documents, which fortunately have survived. On the most basic level, the two synagogues were now in different countries. New York's Shearith Israel had to adapt itself to life in a revolutionary republic; its Canadian namesake reorganized itself as a loyalist community.<sup>7</sup>

Like other synagogues in the newly formed United States, New York's Shearith Israel went through a process of democratization in the aftermath of the American Revolution. Membership in the synagogue had always included two categories: electors or *yehidim* and members. Only the *yehidim* had the power to elect the *parnas* and his trustees. Other members could not vote but were entitled to honours and services from the synagogue. Newcomers or 'strangers,' as they were called, could become members in time, and eventually even *yehidim*. These divisions were maintained after the Revolution, although a larger proportion of the membership was then included in the category of elector. Furthermore, electors became responsible for approving the appointment of the *hazan* (cantor/rabbi), *shohet* (ritual meat slaughterer), and *shamash* (beadle). Prior to the American Revolution holders of these positions had been appointed by the *parnas*.<sup>8</sup>

The exact opposite took place in Montreal. By 1778, the membership of the synagogue there had almost completely changed. For example, David Salisbury Franks, the last president of the congregation before the Revolution, left Montreal and swore his allegiance to the American cause. The reconstituted membership still worried about impropriety and created a very strict set of regulations that included several stipulations concerning strangers.<sup>9</sup>

The earliest extant minutes of Montreal's Shearith Israel date from the reorganization of 1778. The regulations enacted at this time included an unparalleled number of clauses concerning public discord. Members were "separately and jointly [to] promise to promote harmony and unanimity amongst us and endeavour as far as lays in our power [*sic*] to assist each other as circumstances will permit (Article the 14<sup>th</sup>)." As well, "[n]o private quarrels [were] to extend so far as to make division in this congregation ... (Article the 28<sup>th</sup>)," and "severe penalties [were decreed for] ... those who shall be the means of giving a bad name to any of the Congregation [or] by which a disgrace may be brought on any of the Israelites (Article the 29<sup>th</sup>)." Along with these rules came a call for "strict obedience and respect to be paid to the Par-nassim and the Elders of this Congregation (Article the 27<sup>th</sup>)." These clauses are indicative of the unease felt by the congregation in the immediate post-revolutionary era.<sup>10</sup>

The other clause of note in the 1778 regulations is the stipulation that the congregation founders would receive a double vote in synagogue affairs, and that this right would be transferred to their sons. The congregation minutes offer the rationale that the founding members had gone to considerable expense on behalf of the congregation and wanted to ensure that their vision would continue to be followed. This unprecedented regulation, unthinkable in the new United States, was most likely the result of post-revolutionary paranoia. On the other hand, the synagogue remained open to all Israelites who conformed to its rules. This was a reflection of the already diverse nature of North American Jewry that included a large non-Sephardi element.<sup>11</sup>

Not long after the Montreal synagogue was reestablished, the congregation was rocked by a miniature scandal. Ezekial Solomons asked that his son, born of a union with a non-Jewish woman and not circumcized, be buried in the congregational cemetery. The elders of the congregation debated whether an uncircumcized male could be buried in consecrated ground and suggested that authorities in London be contacted. Finally, the synagogue elders decided to bury the child, but they also chose to exclude all those who had married outside the faith from any future services or honours. The issue was certainly not unusual for 'frontier' Jewish communities in North America during this era. Almost every congregation had members who were married outside the faith, and every congregation strove to forbid the practice in its constitutional documents and amendments. The ubiquity of these prohibitions indicates that the problem never disappeared.<sup>12</sup>

No further constitutional documents seem to have been written by the Montreal congregation until 1838. In 1784, Hazan Jacob Cohen left Montreal, and the post remained vacant until 1839. In 1825, David David died, and services were relocated from the building on his Little St. James Street property to a small building on Benjamin Hart's property. Hart and M.J. Hays, who served for a time as Montreal chief of police, took charge of the congregation's religious articles, but the congregation lay essentially dormant until 1832. The community was tiny. And it may be that members' interests were focused on earning a living and trying to secure political rights for the residents, in general, and then for themselves as Jews.<sup>13</sup>

Conversely, in New York, the competing forces of populist republicanism and elitist federalism, necessitated the writing and rewriting of the synagogue's constitution. New York's Shearith Israel went through three constitutions between 1790 and 1824. The city was growing, and synagogue authorities faced the challenge of integrating numbers of newcomers into the congregation. Early membership policies, which had been designed for a small, cohesive congregation, now had to be redrawn, lest the immigrants gain too much power in the synagogue. An attempt in 1824 by synagogue leaders to limit membership coincided with a bid by some of the members to 'revive' worship services at Shearith Israel which, they felt, had become too lax. The incentives of revival, on the one hand, and a perceived unfair curtailment of individual rights, on the other, led to a split in the congregation. The result was the founding of Congregation Bnai Jeshurun, the second synagogue in New York City. Historians have blamed the split on the desire of Ashkenazi Jews (those of central and eastern European provenance) to leave Sephardi Shearith Israel. Yet it is quite evident that, even though the founders of Bnai Jeshurun mention the difference in prayer rites, other motivations were paramount in their decision to split from Shearith Israel. Lest we underestimate the importance of the split, it should be remembered that until 1825, Shearith Israel was synonymous with the New York Jewish community. Many felt that in dividing the Jewish community, the founders of Bnai Jeshurun were committing the sin of *sin'at hinam* (literally, wilful hatred). The term refers to the internecine strife of the late Second Temple period, which the rabbis said had caused God to allow the destruction of the second Temple in Jerusalem. The members of Bnai Jeshurun, however, justified their 'iniquity' by declaring themselves an Ashkenazi congregation rather than a separate Jewish community.<sup>14</sup>

The actions of the secessionists were not unusual for the era. North America was gripped by Christian revivalism throughout the early nineteenth century. Historians have dubbed the American revivals, 'The Second Awakening' and the stirrings in British North America, 'The Canada Fire.' While differences existed between the two phenomena, they shared a disdain for religious hierarchy and established custom. And in both, individual religious feeling was stressed over inherited doctrine.<sup>15</sup>

The New Yorkers were not the only North American Jews trying to stem the tide of a perceived decline in Jewish faithfulness at this time. As early as 1816, Canadian Moses Hart had published a pamphlet entitled, "General Universal Religion," that promoted a new faith especially for Jews and deists. While this work is usually regarded as an extension of Hart's difficulties in attaining political office due to religious prejudice, his desire for a new, truly universal faith was equally reflective of the Canadian radical religious revival. In 1824, Congregation Beth Elohim in Charleston, South Carolina, also experienced a schism. In Charleston, it was 'reform'-minded Jews who broke away from the mother congregation. But as in New York, the Charlestonians were primarily concerned with discovering ways to renew their faith.<sup>16</sup>

The religious agitation of the 1820s had its effects on the Jews of Montreal. On 15 October 1832, Benjamin Hart and other members of Congregation Shearith Israel met at the Montreal court house in order to reorganize the congregation and elect new officers. A letter in the congregation's early records indicates that Hart feared a takeover of the Sephardi congregation by Ashkenazi Jews (ironic, since the Harts were themselves of Ashkenazi origin). Montreal was experiencing an economic boom in the 1820s, which attracted numerous immigrants to the city, including Jews. Hoping to avoid a rupture like that experienced in New York City, Hart sent a harshly worded letter to Isaac Valentine detailing his plans for keeping the "Dutch" from taking control of the "Shool [synagogue] for their own."<sup>17</sup>

Hart's letter is remarkable because of its value as a record of early nineteenth-century Canadian Jewish institution building, and because of its frank description of the social politics involved. He wrote of the potential for the sale of seats in the reconstituted synagogue provided it remained a 'Portuguese Shool.' The letter included the names of 'strangers' (newcomers) who told Hart that they preferred "our [Shearith Israel's] ceremonies to their own," and other "strangers" who would "perhaps ... hold out [at] first," but who, thought Hart, would

eventually purchase seats at Shearith Israel. The "Dutch," he wrote, were "themselves ashamed of their ceremonies." Hart's plans, as well as the greater number of young 'Sefardi' men, would ensure the continuation of the Sephardi rite at the synagogue.<sup>18</sup> The Montreal congregation limped along throughout the 1830s. Efforts to raise money in Europe were unsuccessful, and as late as 1837, there was still no permanent building. Still, some steps had been taken towards renewal. In 1838, the congregation wrote to England advertising for a *hazan* and a *shohet/shamash*.

While the New York Jewish community was, for all practical purposes, experiencing the institutionalization of revolutionary secessionism, in Montreal maintenance of the *ancien régime* was still the order of the day. It was clear that Montreal's Shearith Israel would remain faithful to its traditions. The congregation's 1838 'Bye Laws' call for the election of trustees by "the enregistered Jews" of the congregation. The trustees would, in turn, see to the election of a "President or *Parnas*, a Treasurer and Secretary" and appoint a *hazan*, *shohet* and *shamas* (Chapter I.: 'Of Election of Officers').

The 1838 'Bye Laws' acknowledge the changing nature of North American Jewish life. Instead of requiring all Jews residing in Montreal to join the congregation, the 'Bye Laws' merely required those seeking membership to lease seats that would be auctioned by the congregation for a period of three years. Those who did not lease seats would not be entitled to honours or services; those who could not afford a seat could apply for one at no charge (Chapter VI.: 'Of Seats'). Does this indicate that alternatives for Jewish worship were available in Montreal at that time? Probably not. Congregation Shaar Hashomayim was not formally organized until the 1840s. The authors of Shearith Israel's 'Bye Laws,' however, clearly understood that Jews could no longer be compelled to join a congregation; their language reflected the tenor of the times.<sup>19</sup>

Beginning in 1778, the New York and Montreal congregations traveled separate paths. In many ways, the arrival in Montreal of *Hazan* Abraham De Sola from London in 1847 moved the congregation there even further away from the New York congregation. Early in his tenure, De Sola earned a reputation as a skilful orator (the ability to give a sermon in English had been one of the conditions of his employment). Through his associations in Great Britain and with Montreal's English culture, De Sola cemented Shearith Israel's connection to Victorian British society. During his tenure, the Montreal congregation grew in importance, partly as a reflection of the expanding power of Mont-



real's English residents, and partly as a result of De Sola's high profile in the general community.<sup>20</sup>

Despite common origins and ties of kinship, then, following the American Revolution, the Montreal and New York congregations embarked on separate journeys. In many ways, what distinguished the constitutions of the two congregations were the growing differences between the emerging nation-states in which they were situated. The body of laws governing New York's Shearith Israel recognized the populism unleashed by the American Revolution. The New York synagogue leadership had to devote considerable effort in trying to curtail the power of their electorate. Montreal's Shearith Israel sought to avoid the effects of the American Revolution and the rebellious secessionism occurring to the south. Their divergent constitutional histories mirror those of Canada and the United States generally. Dedicated to "life, liberty, and the pursuit of happiness," the early history of the United States was marked by struggles between the central authority and populist forces on the periphery. Ultimately, the United States was plunged into civil war. Witnessing these difficulties, Canada's founders set about carefully outlining the powers of its constituent parts in the hope that, by dedicating itself to "peace, order, and good government," it would avoid later conflict.

## Notes

- 1 Joseph Yeshurun Pinto, *The form of prayers which was performed at the Jews Synagogue in the City of New York on Thursday, October 23, 1760; being the day appointed by proclamation for a general thanksgiving to Almighty God for the reducing of Canada to His Majesty's Dominions. Composed by D.R. Joseph Yeshurun Pinto in the Hebrew Language and translated into English by a friend to truth.* (New York: Printed and sold by W. Wexman, at his New Printing Office, in Broad Street, not far from the exchange, 1760). See also Solomon Frank, *Two Centuries in the Life of a Synagogue* (Montreal: Corporation of Spanish and Portuguese Jews, 1968), pp. 26–27. New York's Congregation Shearith Israel dates its founding to the arrival of twenty-three Jews in New Amsterdam in 1654. Their first synagogue, however, was not built until 1730.
- 2 Leo Hershkowitz convincingly disputes the 1654 date for the founding of the New York Jewish community in his essay, "New Amsterdam's Twenty-Three Jews – Myth or Reality?" Using newly-discovered documents from

the Gemeente Archief in Amsterdam, Hershkowitz reconstructs some of the comings and goings of the first Jews in North America. With the exception of Asser Levy, most of New Amsterdam's Jewish residents were transient, in America for economic motives, not colonization. The year 1654, he concludes, is too optimistic a date for the founding of the first Jewish congregation in America. A permanent Jewish community able to sustain a *minyan* (prayer quorum) did not arise until the eighteenth century (Hershkowitz, "New Amsterdam's Twenty-Three Jews – Myth or Reality?" in *Hebrew and the Bible in America: The First Two Centuries*, Shalom Goldman, ed. [Hanover, NH: University Press of New England, 1993], pp. 171–83). See also *idem*, "Asser Levy and the Inventories of Early New York Jews," *American Jewish History* 80 (1990–91): 25–27; Egon Wolff and Frieda Wolff, "The Problem of the First Jewish Settlers in New Amsterdam, 1654," *Studia Rosenthaliana* 15 (1981): 169–77. For the standard account of New York Jewish beginnings, see Arnold Wiznitzer, "The Exodus from Brazil and the Arrival in New Amsterdam of the Jewish Pilgrim Fathers, 1654," *Publications of the American Jewish Historical Society* 44 (1954): 80–98. See also David and Tamar De Sola Pool, *Old Faith in the New World: Portrait of Shearith Israel, 1654–1954* (New York: Columbia University Press, 1955), p. 35. The Pools note that a 1695 map of New York City drawn by John Miller refers to a synagogue and that documents from 1700 describe a building on Mill Street "commonly known by the name of the Jews Synagogue."

- 3 Pool, *Old Faith*, pp. 499–500. The insecurity of the early New York Jews may have been exacerbated by the greeting they received when they arrived in New Amsterdam. The 'twenty-three' were met with hostility from Governor Peter Stuyvesant who decried Jews' usurious business practices and articulated his fear that their arrival might set in place unprecedented religious freedom. He believed that if the Jews gained a foothold, the more numerous 'Lutherans and Papists' would soon claim rights from the tiny Calvinist colony. See Stuyvesant's letter of 30 October 1654. "Some New Matter on the Subject," *Publications of the American Jewish Historical Society* 18 (1909): 20.
- 4 Pool, *Old Faith*, pp. 499–500. On the practice of sending away poor Jewish immigrants (*herem ha-yishuv*), see Salo W. Baron, *The Jewish Community: Its History and Structure to the American Revolution*, 3 vols. (Philadelphia: Jewish Publication Society, 1948), vol. 2, pp. 4–17.
- 5 Authorities in Amsterdam permitted the 1654 Jewish arrivals to stay in New Amsterdam – much to Stuyvesant's chagrin – "provided the poor among them shall not become a burden to the [Dutch West India] Company or to the community, but be supported by their own nation."

- (Samuel Oppenheim, "The Early History of the Jews in New York, 1654–1664," *Publications of the American Jewish Historical Society* 19 [1905]: 8).
- 6 Founders of Shearith Israel in Montreal included: Chapman Abraham, brothers Gerson, Simon and Isaac Levy, Benjamin Lyons, cousins Ezekial and Levy Solomons, David Lazarus, brothers John and David Salisbury Franks, brothers Samuel and Isaac Judah, and Andrew Hays. Gerald Tulchinsky, *Taking Root: The Origins of the Canadian Jewish Community* (Hanover, NH: University Press of New England, 1993), pp. 10–11, 15.
  - 7 According to available sources, cordial relations were maintained, and there were families with members on both sides of the border. With the possible exception of disruptions during the War of 1812, the two congregations were never fully detached one from the other. On connections between the Montreal and New York congregations, see Pool, *Old Faith*, pp. 431–32. On the historic ties between the Canadian and American Jewish communities, see Michael Brown, *Jew or Juif? Jews, French Canadians and Anglo-Canadians, 1759–1914* (Philadelphia: Jewish Publication Society, 1987), pp. 67–117.
  - 8 On the democratization of American Jewish congregations, see Jonathan Sarna, "The Impact of the American Revolution on American Jews," in *The American Jewish Experience*, Jonathan Sarna, ed. (New York: Holmes and Meier, 1986), pp. 20–28; Malcolm H. Stern, "American Jewry Comes of Age," in *A Bicentennial Festschrift for Jacob Rader Marcus*, Bertram W. Korn, ed. (New York: KTAV Publishing House, 1976), pp. 539–49; and Eli Faber, *A Time for Planting: The First Migration, 1654–1820* (Baltimore: Johns Hopkins University Press, 1992), pp. 107–41. Despite the democratization, congregations denied membership to indentured servants and black freemen. See Jacob R. Marcus, *United States Jewry, 1776–1985*, 4 vols. (Detroit: Wayne State University Press, 1986) vol. 1, pp. 246–48; and *idem*, *Early American Jewry*, 2 vols. (Philadelphia: Jewish Publication Society, 1951, 1955) vol. 2, p. 427.
  - 9 The Montreal congregation now included: Levy Solomons, Uriah Judah, Samuel Judah, Andrew Hays, David bar Abram, Myer Myers, David David, Heinman Pines, Barnet Lions, Abraham Judah, and Samuel David. The group erected a small synagogue on land owned by David David in Little St. James Street. The acquisition of religious articles was not completed until three years later. Tulchinsky, *Taking Root*, p. 15.
  - 10 Congregation Shearith Israel of Montreal, "Regulations, 3rd Tebeth 5539 (1779)," *Minute Book, 1778–1780*, photocopy in AJA File CS-8355. Frank speculates that – the founders being loyalists – the stipulation curtailing the rights of 'strangers' arose out of paranoia at the height of the American

Revolutionary period. Frank also tells the story of David McCain, a.k.a. Jacob Felt, who came to Quebec in May, 1797 masquerading as a Jew and allegedly hoping to foment insurrection. McCain had apparently been sent by M. Audet, the French ambassador to the United States. McCain was later executed for his actions. Frank, *Two Centuries*, p. 30. See also, Benjamin G. Sack, *History of the Jews in Canada* (Montreal: Eagle Publishing, 1941), pp. 67–68.

- 11 Frank, *Two Centuries*, pp. 28–29; Tulchinsky, *Taking Root*, p. 16. Though unusual for congregations, European *havarot* (religious confraternities) sometimes ascribed hereditary rights to their leading members. Baron, *The Jewish Community*, vol. 2, pp. 17–18. According to demographer Ira Rosenwaike, the North American Jewish community was predominantly Ashkenazi in origin as early as 1730. Ira Rosenwaike, *On the Edge of Greatness* (Cincinnati: American Jewish Archives, 1985), pp. 2–3.
- 12 Congregation minutes recorded that: “The Israelites of the town of Montreal were this day called together to have voice of the congregation concerning the death of a son of Mr. Ezekial Solomons, to know whether he was to be buried according to the rules and customs of Jews the said child not being circumcised. Several circumstances favorable to the said Ezekial Solomons appeared to us, for which reason we allow his being buried, but at the same time we do hereby unanimously agree and declare that no man or boy whomsoever shall be after sixty days from the date buried in the burying place of this congregation unless circumcised.” Cited in Frank, *Two Centuries*, p. 29. See also Tulchinsky, *Taking Root*, p. 15. J. Sheldon and Judith C. Godfrey note that several members of the early Jewish community of Halifax, Nova Scotia (c.1749–1756) were married to non-Jewish women yet continued to participate in the traditional community that developed there. J. Sheldon and Judith C. Godfrey, *Search Out the Land: The Jews and the Growth of Equality in British Colonial America, 1740–1867* (Montreal & Kingston: McGill-Queen’s University Press, 1995), pp. 76–77. Similarly, Philadelphia’s Congregation Rodeph Shalom (Pursuer of Peace) exempted Aaron Dropsie from the clause excluding those who intermarried because he was too important to the community to alienate. Minute Books of Congregation Rodeph Shalom, April 18, 1826, Philadelphia Jewish Archives, Balch Institute; Leon A. Jick, *The Americanization of the Synagogue, 1820–1870* (Hanover, NH: University Press of New England, 1992), p. 47. Malcolm Stern has calculated a 28.7 per cent intermarriage rate for this period. See his “Jewish Marriage and Intermarriage in the Federal Period 1776–1840,” *American Jewish Archives* 19 (1967): 142–43; and Marcus, *Early American Jewry*, vol. 1, pp. 247–48.

- 13 Esther I. Blaustein, Rachel A. Esar, and Evelyn Miller, "Spanish and Portuguese Synagogue (Shearith Israel) Montreal, 1768–1968," *Transactions of the Jewish Historical Society of England* 23 (1971): 114–15. In 1791, British residents of Lower Canada, Jews among them, petitioned for an elected legislative assembly. By the nineteenth century, the Hart brothers, first Moses and then Ezekial, tried to win a seat in the Lower Canada assembly. Ezekial was successful in 1807 but was denied his seat on account of his religion. Lower Canada's Jews continued to press for the right to hold public office and swear oaths appropriate to their faith. They finally succeeded in 1832, but the issue of oaths was not resolved until 1837. Among other sources, see Godfrey and Godfrey, *Search Out the Land*, pp. 171–216; and Michael Brown, "The Beginning of Jewish Emancipation in Canada: The Hart Affair," *Michael* 10 (1986): 31–38.
- 14 Pool, *Old Faith*, pp. 436–39; Hyman B. Grinstein, *The Rise of the Jewish Community of New York, 1654–1860* (Philadelphia: Jewish Publication Society, 1945), pp. 40–49; Marcus, *United States Jewry, 1776–1985*, vol. 1, p. 225. On changes in American thought and culture, see Jean V. Matthews, *Toward a New Society: American Thought and Culture, 1800–1830* (Boston: Twayne Publishers, 1991).
- 15 The revivals in the United States are described in Nathan Hatch's *The Democratization of American Christianity* (New Haven: Yale University Press, 1992). Canadian revivalism has recently been examined by George A. Rawlyk in his monograph, *The Canada Fire* (Montreal and Kingston: McGill-Queen's University Press, 1994).
- 16 On Moses Hart, see Jacob R. Marcus, "The Modern Religion of Moses Hart," *Hebrew Union College Annual* 20 (1947), pp. 585–615. The stimuli for Charleston's splinter congregation, The Reformed Society of Israelites, are summarized in William J. Hagy, *This Happy Land* (Tuscaloosa: University of Alabama Press, 1993), pp. 133–45; and Gary Zola's *Isaac Harby of Charleston* (Tuscaloosa: University of Alabama Press, 1994), pp. 112–15.
- 17 Educated in Philadelphia and New York, Hart would have had first-hand knowledge of American Jewish developments. Blaustein et al., "Spanish and Portuguese Synagogue," pp. 115, 119. It is unclear why reorganization efforts were resumed in the 1830s. Perhaps the conclusion of all the political turmoil surrounding the Hart Affair and the granting of political rights to Canada's Jews permitted Montreal Jews to concentrate inwardly once again. On the economic growth of this period, see Gerald Tulchinsky, *The River Barons: Montreal Businessmen and the Growth of Industry and Transportation, 1837–53* (Toronto: University of Toronto Press, 1977), p. 7. See also, letter of Benjamin Hart to Isaac Valentine, 14 October 1833, Early Records,

- 1833–1909, Congregation Shearith Israel of Montreal, AJA Microfilm No. 389. The irony of describing a Sephardi synagogue with the Yiddish word, *shul* (school or synagogue) seems to have been lost on Benjamin Hart. Valentine served as the reconstituted congregation's president and prayer reader until the arrival of Hazan David Piza in 1839. See Arthur D. Hart, ed., *The Jew in Canada* (Toronto: Jewish Publications Limited, 1926), pp. 39, 499.
- 18 Benjamin Hart to Isaac Valentine, 14 October 1833. The letter also described Hart's suggestions for the building of a synagogue. Hart advised buying outright any lot and suggested that a middle lot was better than a corner lot because it would have fewer windowed facades open to the threat of vandalism. Hart wanted to retire from the synagogue's board, but was afraid to leave with so many plans unresolved.
- 19 Blaustein et al., "Spanish and Portuguese Synagogue," pp. 114–15; Tulchinsky, *Taking Root*, pp. 33–36. Just as Shearith Israel begat Bnai Jeshurun, dissatisfied members of Bnai Jeshurun left to form Congregation Anshe Chesed (People of Righteousness) in 1828. In 1839, 'Polish' members of both Bnai Jeshurun and Anshe Chesed left their congregations to form Congregation Shaarey Zedek (Gates of Mercy) and 'German' members of Anshe Chesed left to found Shaarey Hashamayim (Gates of Heaven). Congregation Rodeph Sholem (Pursuer of Peace) was founded in 1842 by another 'German' offshoot group from Anshe Chesed. In 1843, there was a split in Shaarey Zedek that resulted in the founding of Congregation Beth Israel (House of Israel). As historian Hyman Grinstein has written, "the story of the congregations of New York, until 1860, at least, is one long account of secession and more secession." Grinstein, *New York*, pp. 49–50. Chapter II of the 'Bye Laws' ('Of Prayers') of Shearith Israel in Montreal states quite clearly that the prayers would "forever be read in the Hebrew Language, according to the custom of the Spanish and Portuguese Jews, and no other." English sermons were permissible when directed by the parnas. *Bye Laws of the Congregation Kahal Kadosh Shearith Israel of Montreal* in the National Archives of Canada.
- 20 Blaustein et al., "Spanish and Portuguese Synagogue," pp. 116–17. In 1853, Abraham De Sola became a lecturer at McGill University and later was appointed professor. On Montreal Jewish life in the De Sola era, see Tulchinsky, *Taking Root*, pp. 40–60; Brown, *Jew or Juif?* pp. 43–46 and elsewhere; and Richard Menkis, "A Missionary Sermon to the Jews in Mid-Nineteenth Century Montreal: Texts and Contexts," *The Frank Talmage Memorial Volume*, vol. 1, Barry Walfish, ed. (Haifa: Haifa University, 1993), pp. 333–49.

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# Signs of the Times: Changing Notions of Citizenship, Governance, and Authority as Reflected in Synagogue Constitutions

MICHAEL BROWN

Since the 1960s, the norms of citizenship (that is, membership) and governance among Jews in the Diaspora and in Israel have been undergoing substantial transformation. The pace and nature of the change, though, have varied according to local factors and type of organization. Broadly speaking, Jews have become increasingly secularized. Nonetheless, religion has remained the bottom-line determinant of Jewishness; almost all Jews continue to believe that adherence to another religion disqualifies a person from being considered Jewish. Disagreement is widespread, however, about what qualifies a person to be considered 'Jewish.' Longstanding modes of governance and attitudes towards authority have not disappeared from the community. But in these areas, too, change has been occurring for some time.

In the main, variations in attitude and policy have been sparked by developments originating outside the Jewish community. These include: the long-term waning of the power and influence of religion in the increasingly secular societies of the West – a phenomenon particularly noticeable among Jews – and the more recent revival of religious traditionalism among Christians, Muslims, and Jews; the breakdown of long-standing ethnic barriers leading to a rapidly rising intermarriage<sup>1</sup> rate; the emergent women's movement; and the general acceptance of democracy as the most appropriate form of communal government. The commitment to democracy is connected to the shift of world Jewry's demographic centre to the English-speaking countries, as a result of migration and the Holocaust.

Intermarriage has resulted in the appearance of two virtually new, interrelated phenomena: Jews who marry non-Jews but do not convert to another faith; and non-Jews who become affiliated with the Jewish



community through marriage. Many in the latter group consider themselves members of the community but take no formal steps to acquire citizenship (in other words, to convert to Judaism). Other questions stemming from intermarriage relate to the nature of the conversion or naturalization process and the authority of individuals or organizations to administer it.<sup>2</sup>

The women's movement and the adoption of democratic communal governance have also engendered far-reaching changes. The women's movement has challenged women's limited citizenship and participation in the governing process of the Jewish community. Democracy has undermined the authority of the rabbis, who, according to tradition, had inherited the mantle of (now indirect) revelation following the end of the prophetic era.

In general, synagogues have responded slowly and rather reluctantly to societal pressures. As the community organizations most resistant to alterations in citizenship or naturalization criteria, they have preserved traditional lines of authority more successfully than others. They remain, to a great degree, repositories of hallowed communal values and customary modes of behaviour.<sup>3</sup>

That is not to say that religious institutions have been impervious to the influences affecting other communal organizations. They, too, have experienced changes, albeit more gradually. In fact, synagogues may be among the most accurate barometers of long-term, irreversible trends, simply because innovation occurs there at a moderate pace. Also, because most synagogues have trans-national affiliations but are nonetheless autonomous, their practices reflect both *zeitgeist* and local custom.

Usually, constitutions record those precepts and norms about which compromise cannot be entertained, at least at the time of formulation. They are revised only infrequently, often to give sanction to developments that have already taken place and sometimes to inhibit developments that threaten to occur. Up-to-date synagogue constitutions, therefore, are likely to be especially reliable indicators of the extent, depth, and permanence of shifts in the organized Jewish community.

## The Context

The concept of Jewish citizenship, although not static, was relatively straightforward until the eighteenth century. In the biblical period,

membership criteria for the Israelite nation do not seem to have been clearly demarcated, nor did they excite much discussion. In fact, a great deal of what we know must be inferred from the treatment of non-Israelites as recorded in the Bible. The Book of Exodus (12:38), for example, reports a large number of non-Israelite hangers-on who left Egypt for the Holy Land under the leadership of Moses. The biblical term for them is the pejorative *'erev rav*, meaning 'rabble.' Yet, however they were looked upon by the emerging Israelite nation, this mixed multitude apparently assimilated into the host group without much difficulty, since they are not referred to again. Biblical traditions seem to indicate that membership in the group was usually determined by paternity, although affiliation with the Jewish nation – following an interval of residency – may have been sufficient for naturalization.<sup>4</sup>

By rabbinic times, different and firmer membership criteria had been established. Jewish citizenship now had to be acquired formally in one of two ways: being born of a Jewish mother or undergoing a rather precisely outlined process of conversion.<sup>5</sup> All male Jews were endowed with the same rights and privileges (with some minor exceptions connected to the descendants of the ancient priesthood and to converts and their descendants). All female Jews were endowed with the same rights and privileges (again with some minor exceptions connected to converts), although not the same ones bestowed upon males. Generally, rabbinic law considered citizenship inalienable.

As with most ancient and medieval societies, Jews reserved leadership positions for males, although a few women, most notably Deborah, the political and military leader ('judge'), succeeded in breaking the gender barrier in biblical times (Judges 4–5). During the post-biblical period, the conduct of public religious ceremonies and the exercise of authority in 'secular' and religious affairs were almost always reserved for males. Women were permitted a muted voice, if any, in the governing process.

In theory, 'secular' authority (*keter malkhut*, in the terms of Daniel Elazar)<sup>6</sup> in the biblical period was derived from God and exercised by judges, kings, and prophets deemed to have been chosen by God. By late antiquity, even though Jews continued to view God as the ultimate, if indirect, source of authority, the actual leadership role had passed to the rabbis. Over time, lay leaders acquired power and came to share governance with the rabbis, sometimes easily, sometimes less easily. Oligarchic/theocratic communal administrations were the result.

In the mid-nineteenth century, secular conceptions of Jewishness began to emerge in Europe and North America, although not to any great extent among Jews in the Muslim world.<sup>7</sup> As a consequence, the fabric of traditional attitudes towards citizenship, governance, and authority began to fray, although earlier notions retained their currency in many religious and secular institutions. Especially in New World communities, Jews came to believe that democracy, which was serving them well in dealing with their non-Jewish neighbours, should also obtain within their own community. In earlier generations, God was believed to speak through prophets and rabbis. Now, however, *vox populi, vox dei*. And for many, *vox populi* alone sufficed, even in the synagogue.

Beginning in the late eighteenth century, in response to the challenge of Jewish emancipation, new, 'enlightened' approaches to Jewish religious law and practice began to emerge, contributing to the decline of the rabbis' power. In an increasingly secular and plural community (again with the exception of the Jewish communities of the Muslim world), the appropriateness of a universal naturalization process (conversion) with a traditional religious character no longer seemed self-evident. Reforming groups and individuals initiated changes in the process of conversion, and conversions ceased to gain automatic recognition. A small number of radical religious reformers came to advocate the complete elimination of formal conversion as a qualification for citizenship. They suggested or even stated explicitly that one might join the people of Israel simply by marrying a Jew or by being born either to a Jewish father or a Jewish mother or even by a simple declaration of faith.<sup>8</sup>

Another result of the emancipation process was that women attained significant influence and a measure of equality in many spheres of Jewish life. In Europe, communal change in this area came very slowly; in Canada and the United States, it was more rapid. In North America by the late nineteenth century, women's organizations had become powerful forces in Jewish community life. By the 1920s, the National Council of Jewish Women, with primarily secular aims such as social action, and Hadassah, with its Zionist orientation, had become arguably the most vibrant Jewish institutions. Regnant social norms, however, ensured that women would continue to be largely excluded from the governing bodies of both religious and secular communal institutions, except, of course, for those groups which restricted their membership to women.

This was certainly true of the synagogue, the flagship institution in Diaspora communities. There, women's participation continued to be circumscribed, although by the First World War, North American synagogue sisterhood groups and women's auxiliaries had assumed a key role in the religious life of the community. Although mixed seating for prayer was uncommon outside North America in the 1920s, there it had become the norm for Reform and Conservative Jews, and it was not unknown among the Orthodox. All denominations, however, denied women full participation in the governance of synagogues, to say nothing of a leadership role in public prayer services, the most frequently held communal ceremony. Only in the 1970s did it become possible for women to serve as rabbis and cantors in some denominations.<sup>9</sup>

Until well into the post-Second-World-War era, then, traditional norms of citizenship prevailed in those diaspora Jewish communities where Jews were free to organize their communal life, although long accepted notions of authority had begun to change much earlier. By the 1960s, women were marginally more welcome as leaders and participants in the Jewish body politic than in the past, but older attitudes still prevailed to a large degree. By mid-century, there were, however, signs pointing to more radical transformations in the future in all three areas.

The locus of this study is Canadian Jewry, which in some ways is a microcosm of Western Jewry and in other ways a unique case. Two features shared by Canadian and American Jewry are the primacy of religion in Jewish identity and the denominational division of practicing Jews into Orthodox, Conservative, Reform, and Reconstructionist congregations. In general, Orthodoxy is the most traditional religiously and Reform the least so, with Conservatism in between and the few Reconstructionist synagogues sharing similarities with both Reform and Conservatism. In Canada, as in all other contemporary diaspora communities, association with the community is voluntary, and membership must be made appealing to attract and hold constituents. Consequently, synagogue constitutions set out few requirements for citizenship and stress instead the rights of citizens (that is, members).

The unique features exhibited by Canadian Judaism in the late twentieth century are several. Canadian Jewry is of relatively recent origin. Its roots extend back to the mid-eighteenth century, but over half of its members are of post-Second-World-War provenance, and the ancestors of most of the rest came to Canada after 1900. Holocaust survivors and their descendants and Jews from Arab countries, Israel, and the former Soviet Union are a distinct and significant presence.

Although it is a sizeable community, Canadian Jewry is only about one-fifteenth as large as that of the United States, and it is overwhelmingly concentrated in two cities, Toronto and Montreal. Canada's self-image is that of a rather conservative, low-key nation in which innovation tends to be greeted more sceptically and tradition better respected than in the United States. Reform Judaism got a very slow start in Canada; there were but three Reform congregations in the country as late as 1953. Orthodoxy, on the other hand, has exhibited more vitality and staying power than in the United States.<sup>10</sup> A fifth religious grouping has become a noticeable force in the Montreal community (less so in Toronto): traditionalist Sephardim. Mostly of recent North African origin, they share some characteristics with the majority Ashkenazim (Jews of central and eastern European provenance) but exhibit some distinctive styles of religious practice and organization.<sup>11</sup> Finally, Canada's regional variations are, to some extent, reflected in religious institutions. Several congregations in Montreal, Toronto, and British Columbia exhibit features characteristic of their region; some synagogues in areas with a very sparse Jewish population display attributes peculiar to them.

### Citizenship Criteria and Rights

Until recently, citizenship in Canadian religious institutions was a fairly simple issue. For nearly two centuries following the establishment of organized Jewish life in Canada in 1768, most synagogue constitutions invited the membership of all Jews without qualification other than age and good character. Almost everyone agreed that the criteria for Jewishness were the traditionally accepted ones. Few, if any, congregations demanded conformity in practice or belief as a qualification for membership. For example, the 1871 bylaws of Toronto's Holy Blossom Congregation – then still a nominally Orthodox synagogue – offered membership to all “persons of the Jewish faith” at least eighteen years old; thirteen years later, the revised bylaws declared the rolls open to “any Israelite.”<sup>12</sup>

As religious and ethnic loyalties have diminished and interdenominational conflict in the Jewish community increased, a few synagogues have attempted to demand ideological conformity from their members. An example is the 1991 *Constitution and By-laws* of Beth Israel Beth Aaron Congregation of Montreal which restrict member-

ship to persons of the "Orthodox Jewish faith." An oddly contradictory provision in the bylaws suggests, however, that, in effect, the congregation does not practice its Orthodox convictions. The clause permits a person "married outside the Judaic Torah Law" to apply for membership, provided he was "born of ... and ... continues to profess the Jewish faith." Montreal's Spanish and Portuguese Synagogue and Congregation Chevra Kadisha-B'nai Jacob are Orthodox congregations that have retained an open membership policy. Their bylaws (1992 and 1987 respectively) still offer membership without further qualification to any person of the Jewish faith who is of good character.

Intermarriage and, to a degree, the openness typical of a democratic and pluralistic society brought about the breakdown of consensus regarding citizenship and inspired the development of new constitutional formulations of the concept. Although intermarriage is generally considered to be a recent problem, constitutions indicate that it was becoming a concern in some congregations as early as the 1930s, when only a few Jews married out. Toronto's Congregation Shearith Israel Anshei Lida is a small Orthodox synagogue situated on the edge of an upscale neighbourhood that since the 1940s has been populated by many Jews. The synagogue constitution of 1933 – when few Jews lived in the area and most of those were rapidly acculturating – stipulated that only those married according to the laws of Moses and Israel were eligible for membership. Another 1933 constitution, that of Ottawa's working-class Sons of Jacob Congregation, also Orthodox, provided for the suspension of any member who married "out of the Jewish faith" (that is to say, a non-Jew).

As interfaith marriage became more common after the 1960s, the approach to Jewishness as a *sine qua non* for citizenship has diverged widely in Canadian synagogues. Some Orthodox congregations have tightened their membership guidelines to ensure that the synagogue not be perceived to sanction intermarriage and that people calling themselves Jews do, in fact, conform to the traditional criteria of Jewish citizenship. In Reform congregations, the tendency has been to expand the notion of citizenship and, in some cases, to eliminate altogether the requirement of Jewishness. Some Conservative congregations have followed the lead of the Orthodox. Most, however, have refrained from dealing with the issue through constitutional provisions.

Examples of the defensive posture in the Orthodox community are illustrative.<sup>13</sup> Congregation Beth Shalom in Ottawa is a synagogue that was created through the merger of Adath Jeshurun, once the premier

congregation of the national capital, and Sons of Jacob. Its 1992 by-laws hold membership open to "any person who according to Halacha [that is, traditional Jewish law] is a Jew [and] ... of good character." The 1994–95 draft constitution and by-laws of Toronto's Anshei Lida Congregation mandate that members be "born of [a] Jewish mother or converted to Judaism according to Halacha."

Many Orthodox synagogues have adopted constitutional articles which call for the expulsion of members who intermarry. Two Toronto synagogues have adopted or proposed provisions requiring the ousting of the entire family of any male or female member or dependent child who intermarries regardless of whether the person converts to a faith other than Judaism.<sup>14</sup> Most congregations, however, consider a person who has intermarried to be no longer a member of his or her own family, thereby allowing other family members to retain their synagogue membership.<sup>15</sup> The 1971 and 1989 constitutions of Congregation Beth Tefilah of London, Ontario, declare that members "married not in accordance with traditional Jewish Law ... shall forfeit all rights and benefits of the Congregation." Toronto's suburban B'nai Torah, a congregation not usually considered to be at the liberal end of the Orthodox spectrum, requires only that a "person ... not married in accordance with the Orthodox Jewish Law shall consult the Rabbi who shall determine what action, if any, is necessary."<sup>16</sup>

Abir Yaacob Congregation, an affiliate of the Sephardic Kehila Centre opened in 1997 in Vaughan Township adjacent to Toronto, has an unusual attitude to intermarriage, which may reflect the attempt of the Sephardic community to maintain an Orthodox approach to Judaism while remaining inclusive. The constitution states that only Jews "born to a Jewish mother, or ... converted ... by a reputable orthodox Bet Din [rabbinical court], recognized by the Sephardic Rabbinat of Ontario" are eligible to become "regular participants."<sup>17</sup> Anyone "who marries not within the precepts of Halacha, shall lose his or her privileges of a regular participant [*sic*]." If, however, someone does marry outside the law, the "Haham [rabbi] shall then determine whether he or she [the born Jew] can receive the privileges of a guest [that is, limited participation]."

Responses to intermarriage in the Reform community are quite different and more varied. Although they do not define the concept, a number of Reform congregations have retained Jewishness as a requirement for membership in their most recent basic law documents. As is the case with the Orthodox, several Toronto Reform congrega-

tions are among the most traditional with regard to membership qualifications (Holy Blossom and Temple Sinai, both of them very large, and the smaller Temple Emanu-El, for example, in their constitutions of 1992, 1994, and 1993 respectively). The 1990 *Constitution and Bylaws* of the very small Regina congregation, Temple Beth Tikvah, restrict membership to "Jewish person[s] or any person undergoing a recognized conversion program."

Most Reform congregations, however, now allow non-Jewish spouses to become members. A few, such as Congregation Iyr Ha-Melech in Kingston, Ontario, have gone much further, bringing about a radical revolution in the concept of Jewish citizenship, a shift without precedent in post-biblical Jewish history. The 1993 constitution of the Kingston synagogue opens membership to "any person over 18 years of age who ... seeks to be associated with the Jewish faith," echoing the language of the 1967 constitution of Temple Israel of Ottawa. Interestingly, the latter synagogue has moved away from radical inclusivity; its 1993 constitution reserves membership for Jews.

Reform congregations have adopted various attitudes to the rights of non-Jewish members. Some synagogues deny them the vote and/or the right to hold office<sup>18</sup> or the privilege of participating in certain religious rites.<sup>19</sup> By the 1990s or earlier, however, many other congregations were offering unrestricted membership to some non-Jews,<sup>20</sup> thereby making it possible, in theory, that synagogue officers, as well as participants in religious services, might not be Jewish. One of these is Temple Solel in Mississauga, a populous western suburb of Toronto with a small Jewish population.<sup>21</sup>

Official Conservative movement policy regarding non-Jewish relatives of Jewish synagogue members is almost as restrictive as that of Orthodoxy; synagogue membership is barred to non-Jews.<sup>22</sup> Recent poll data in the United States, however, suggests that while most "Conservative congregants endorse halakhah, [they] ... also believe in patrilineal descent for their own grandchildren," many of whom do not have a Jewish mother and are therefore not Jewish according to *halakhah*.<sup>23</sup> As a result, most Conservative synagogue basic documents sidestep issues arising from intermarriage and non-*halakhic* conversions. Recent constitutions of Conservative congregations, such as Beth Tikvah (*Constitution and By-Laws* of 1989), one of Toronto's most traditional Conservative synagogues, Winnipeg's Shaarey Zedek (*General By-Law* of 1982 amended to 1991), and Shaar Shalom Congregation of Halifax (Articles of Association revised in 1992), retain the simple and once uni-



versal membership requirement: persons "of the Jewish faith." Adath Israel Congregation in Toronto makes no explicit mention of Jewishness at all in its 1988 constitution (amended to 1992).

Burial rights for non-Jewish children and spouses of synagogue members is one of the potentially thorny issues not addressed in most Conservative constitutions. There are, however, a few exceptions, such as the constitution adopted in 1993 by Congregation Beth El in Vancouver, stipulating that only Jews may be buried in the synagogue cemetery. Another example is the constitution of Congregation Emanu-El in Victoria, British Columbia, from the same year. It also states that burials are "not [to] be conducted at the cemetery other than in accordance with the Rites and Customs of Conservative Judaism as interpreted by the Committee on Law of the Rabbinical Assembly of America."<sup>24</sup>

The contradictory tensions affecting Conservative congregations attempting to occupy the middle ground of Judaism, as well as the pressures felt by congregations in small or outlying communities, are clearly manifested in the constitution of the venerable Victoria synagogue. So, too, are the differences between Conservatism and Reform on the one hand, and Conservatism and Orthodoxy on the other. Emanu-El is one of the oldest congregations in Canada; its building, erected in 1863, is the oldest synagogue structure in the country still in use as a synagogue. According to its constitution, membership is open to "any adult dedicated to and following the Jewish faith," and, as noted above, the congregation adheres to the norms of the (Conservative) Rabbinical Assembly of America. It flouts those same norms,<sup>25</sup> however, by allowing non-Jews to join. Its constitution states that, if a family "includes an individual who is not of the Jewish faith, this person shall be a member, and with the exception of voting privileges and eligibility for election to office, the person shall be entitled, within the limits of Jewish Law, to the privileges of membership."

As might be expected, Toronto's Darchei Noam, one of Canada's few Reconstructionist congregations, straddles the fence between the Conservative and Reform movements. Its 1989 bylaws, as well as the proposed revisions from 1997, limit "full voting" membership to persons "of the Jewish faith as defined by the Reconstructionist Rabbinical Association ... Associate Memberships" are, however, "available to non-Jewish spouses of Voting Members" (underlining in original). Associate (that is, non-Jewish) members have the same rights as voting

(that is, Jewish) members, except that they may not vote at synagogue meetings, be elected to office, or purchase burial plots (there is no mention of who may actually be buried), and they may not take a leadership role at worship services.

Congregation Dorshei Emet, the Reconstructionist synagogue of Montreal, is the other major Reconstructionist congregation in Canada. Its 1994 constitution states that the "non-Jewish spouse of a member may be welcomed into the synagogue ... but shall not be entitled to membership in the congregation." The Montrealers also deny membership to any person refusing to grant a spouse a *get* (bill of Jewish divorce). Interestingly, Dorshei Emet couches its treatment of non-Jewish spouses in biblical language, calling him (or her) '*Ger Toshav*' (a non-Jewish sojourner). This is the only constitution to use traditional Jewish terminology (albeit in an innovative way) in its membership regulations.

In almost all segments of the community, changing ideas about appropriate gender roles have added to the complexity of notions of citizenship no less than the new diversity of Judaism. All the early constitutional documents either limited membership to men or placed severe restrictions on women members. The case of Holy Blossom, Toronto's first congregation, which was established in 1856, is illustrative. Although it was nominally Orthodox until the 1920s, Holy Blossom was less traditional in the nineteenth century than many other synagogues; its 1894 constitution permitted "widows or unmarried ladies" to become members of the congregation. No mention was made of married women, however, who were presumed to affiliate through their husbands' membership. The dues of individual female members were fixed at forty per cent of the rate for males, and women were entitled to a similar proportion of rights: "all the privileges of membership, with the exception of taking part in ... Congregational meetings." Despite the relative openness of its constitution, women were barred from positions of power at Holy Blossom. The 1914 and 1936 bylaws of Ottawa's Orthodox Congregation Adath Jeshurun stated unambiguously that membership was open to "any male person of the Jewish faith."<sup>26</sup> The 1922 bylaws of Montreal's Reform Temple Emanu-El used gender-neutral language to describe the terms of membership, but elsewhere elaborated the rights of "wives of members," thus making it clear that only males were considered members.

Most constitutions of the 1980s and 1990s consider both men and women to be members with full voting rights. (A few Orthodox syna-

gogues, such as Beth Avraham Yoseph, a large congregation in Thornhill, a suburb of Toronto, allow only one vote per family unit, although it may be "cast by an[y] adult member."<sup>27</sup> Reform synagogues have all permitted women to participate fully in the prayer service, although most constitutions deal with this question through the use of gender neutral language rather than explicit statements. Orthodox synagogues do not permit women to lead public prayers. Constitutions generally do not state this explicitly; instead, they stipulate that "all services shall be conducted in accordance with traditional Orthodox practice" or similar wording.<sup>28</sup>

This is another area of congregational life that most Conservative synagogues refrain from addressing in basic laws. As late as 1997, Conservative congregations in Montreal and Toronto were following Orthodox practice with regard to women and public prayer with the notable exception of Toronto's Beth Tzedec Synagogue, which claims to have the largest membership of any synagogue in the world. Frequently, Conservative synagogues in western Canada and the Maritime Provinces, such as Congregation Shaarei Zedek in Saint John, New Brunswick (Constitution of 1964 amended to 1992), adopted Reform practice with respect to women and the prayer service, responding, in part, to the exigencies of Jewish life in smaller communities.

Some small-town congregations have maintained their typically Canadian traditionalism in spite of the difficulties. The constitution of Congregation Tiferes Israel in Moncton, New Brunswick, adopted in the early 1990s, reaffirms the "traditional Orthodox" approach of the synagogue and stipulates that it be led by "an ordained Orthodox Rabbi." In its 1909 *Articles of Incorporation*, Congregation Agudas Israel of Saskatoon, then the only synagogue in a small community (approximately 175 families), defined the goal of the congregation as "promoting the Orthodox beliefs of the Jews among its members [*sic*]." In 1958, a new building was erected, and the *Act to Incorporate* of that year stipulated that "as long as there be a sufficient number among its members," the old building should be maintained with "Jewish Orthodox religious services therein." Worship in the new building, however, would be as "prescribed by the [Conservative] Rabbinical Assembly of America, and followed by conservative [*sic*] synagogues in Canada." The 1984 *Consolidated Bylaws* provided for virtually complete equality of men and women in the worship service. That provision of the bylaws was repealed, however, at a general meeting in 1987, and the congregation reverted to more traditional practice.

## Governance and Authority

The issue of authority has several facets. It refers primarily to the relationship between the rabbi and the membership or their elected representatives. A second aspect of authority is the extent to which the members of a congregation attempt to ensure the permanence of their vision of Judaism and Jewishness through the insertion of 'poison pill' clauses in their basic laws, to borrow a term from the corporate world. A third issue, which involves both authority and governance, concerns qualifications for lay leadership, especially, but not exclusively, the role of women in the governing structure.

According to traditional notions, as explained earlier, the rabbis' authority comes from God. Theoretically, then, the rabbi should have final authority in his or her synagogue. Rabbis are protected from collegial interference by the concept of *mara de-atra* or 'house rabbi,' which inhibits colleagues from interfering with one another. Ideas of democracy, however, present a challenge to rabbinic authority, as does the economic power of laymen, although the latter phenomenon is not unique to modern times. Especially in North America, where Jewish communities have no formal hierarchical structure recognized by law, one might well expect power sharing between clergy and lay people, if not control of the clergy by the laity.

In fact, from the earliest period of settlement, the prevailing mode of rabbi/lay-leader relationship in North America has not been power sharing, but control of the rabbis by the lay officers and boards of synagogues, sometimes at a distance, sometimes directly. This pattern results, in part, from the congregational model of organization and its concomitant, the absence of centralized authority. The rabbi is appointed by the board of governors or by the congregation at large and may be dismissed by a vote of one or the other body. His or her performance is invariably subject to the review of the board. Consequently, almost all constitutions limit the rabbi's role to 'religious' matters. The rabbi is not to interfere in the financial affairs of the synagogue or in its management. He or she may attend board and committee meetings at the pleasure of the board, although attendance at worship, ritual, and education committee meetings is often required. Almost never is the rabbi given a vote at such sessions. (This does not mean, of course, that individual rabbis are unable to exert considerable influence on their flock. They do so, however, not through the exercise of constitutional right, but largely through personal charisma, moral suasion, and superior acquaintance with sacred lore.)

The 1991 constitution of Toronto's Orthodox Kehillath Shaarei Torah serves as an example. It delineates the parameters of the rabbi's ambiguous competency:

All questions relating to the interpretation of Torah law (including ... the conduct of congregational services, Kashruth, the observance of the Sabbath and all other holy days and all other matters treated in the Shulchen Aruch [sic]) ... shall ... be determined by the Rabbi after consultation with the Religious Committee ... . The Rabbi's decision on any such matter shall be final.

The language of the documents is often fuzzy, although the intent is quite clear. The 1974 constitution and bylaws of Mississauga's Reform Temple Solel are characteristic. The rabbi is accorded "the overall responsibility of implementing the spiritual objectives of the Congregation." On the other hand, the constitution directs him to "seek the advice and guidance of the Board of Directors or of any specific committee or committees which may be set up for this purpose, to determine the views of the Congregation and the most effective way of discharging his duties." In the new bylaws for Montreal's Spanish and Portuguese Synagogue drafted two years later, the rabbi is described as "the spiritual head of the Congregation" and instructed to "direct [its] ... religious, educational, spiritual and pastoral life." But the language of this Orthodox constitution is almost identical to that of the Reform Temple Solel: the rabbi is to "consult with the Parnas, the Executive Committee and Board to determine the views of the Congregation and the most effective way of performing his duties." Both congregations expect the rabbi to minister with one eye on God and the other on the synagogue trustees. The Kehillath Shaarei Torah constitution cited above expects the rabbi to consult with the religious committee before making decisions even when those decisions are within his stated area of authority.

The constitutions of the more traditional congregations reserve to the rabbi a somewhat larger degree of autonomy than those of less traditional synagogues. Yet even they preserve the supremacy of the membership through its elected representatives, the board of trustees. The 1988 constitution of Toronto's Conservative Aduath Israel declares the rabbi to be "the definitive interpreter of Jewish Law and tradition for the Congregation ... [and to be] responsible for the observance of Kashruth on the premises and at functions of the Congregation." He is only a "consultant" or "resource person" to committees of the congre-

gation, however, and he is engaged and subjected to periodic review by the members in a general meeting. Similarly, the 1992 bylaws of Ottawa's Orthodox Beth Shalom Congregation declare the rabbi to have "final authority with respect to matters of Halacha." He is, however, accountable to the board of governors which hires him and reviews his performance regularly.

Two congregations in Toronto and one in Montreal are interesting exceptions to the prevailing mode of rabbi/congregation relationship. One is the Sephardic synagogue, Abir Yaacob, where the 1997 constitution appears to insulate the rabbi from lay interference. The document declares the incumbent rabbi, "an inspiration to great deeds in the service of HaKadosh Baruch Hu [the Holy One Blessed Be He], ... Rabbi in perpetuity."

The other anomalies are the Reconstructionist congregations in Toronto and Montreal where power sharing between clergy and congregation is legislated. The 1994 constitution of Montreal's Dorshei Emet makes the 'Rabbi or Rabbis' voting members of the Executive Committee. At Toronto's Darchei Noam, the proposed 1997 bylaw revisions declare "the relationship between Rabbi and congregation ... [to be] a covenant through which each party undertakes the obligation of working together in the service of God and the Jewish people." A sub-committee of the Executive Committee, called the "Rabbi Liaison Committee" [*sic*], is established to "work with the Board, the Rabbi, and the synagogue membership to establish and review annually a list of goals and priorities for the synagogue as a whole." The committee is to meet regularly "to monitor progress toward their achievement" and is to "provide the primary evaluation of the Rabbi and the congregation and their relationship." But the Rabbi Liaison Committee may "not carry out performance reviews of the Rabbi," although such reviews, "if and when required," may be undertaken by another committee (underlining in original). Darchei Noam is the only Canadian synagogue to use a traditional Jewish theological/political concept (covenant) to define the relationship between rabbi and congregants.

If most synagogue constitutions limit the authority of the clergy by stipulating hiring and review by the lay officers, they also limit the power of lay people. The Montreal Reconstructionist congregation limits officers to three terms of two years each in any one position. The imposition of constraints with regard to constitutional amendments is a more commonly used method of limiting congregants' power.

Older constitutions and the majority of newer ones, as well, require a two-thirds vote of the membership for amendment.<sup>29</sup> Some recent

constitutions of Orthodox congregations, most notably in Toronto and nearby cities, make amendments dealing with core issues (chiefly, the role of women in the synagogue and ritual practice) much more difficult. The constitution of Petah-Tikva Anshe Castilla, adopted in 1987, asserts that "services shall be conducted according to the ritual as is practiced by the Sephardim (Minhag Tangiers) equivalent in structure to the North American concept of Orthodoxy." While other provisions are subject to amendment or repeal by two-thirds of the members voting, "the religious concepts" of the congregation are not "subject to any change ... whatsoever so long as 6 members in good standing wish to abide by them." The 1994 draft *General By-law* of Toronto's Shaarei Shomayim Congregation allows amendment by three-fourths of the board of governors if ratified by two-thirds of the members present at a congregational meeting. Provisions relating to the religious practices of the congregation and the role of women in its governance, however, require the agreement of ninety per cent of the board of governors and ninety per cent of the members voting at a congregational meeting. The 1971 constitution of London's Beth Tefilah Congregation forbids the amendment of any provision relating to religious practice, if five members of the synagogue object. The 1994–95 constitution and bylaws of Toronto's Beth Lida Congregation require the approval of 100 per cent of "the entire membership in number vote" for change to be instituted in the religious practices of the congregation. Montreal's Orthodox congregations exhibit more responsiveness to the democratic wishes of their rate payers and have retained the two-thirds rule even regarding religious practice.

Here, too, Toronto's Sephardic Abir Yaacob Congregation is an extraordinary exception. It is governed like the private, family synagogues once common in the Muslim world, and its constitution reflects none of the democratic features exhibited by other Canadian synagogue constitutions. The document declares that the "Congregation will not enter into a relationship of membership with its participants," that it will have only "regular participant(s)" and "guests" with defined privileges but no voting rights whatsoever. There is no provision for amendment. Not only is the rabbi appointed "in perpetuity," as noted above, "the builder, founder and benefactor ... is President in perpetuity of the Sephardic Kehila Centre" and its synagogue. From "time to time, as and when he deems appropriate, [the president] shall appoint an Advisory Council, with a Chair, to assist him in running the day to day affairs of the centre."

With regard to qualifications for lay office holders, most Conservative, Reform, and Reconstructionist constitutions, as well as most pre-1950 Orthodox documents, consider all male members as equally eligible. The 1933 constitution of Ottawa's Sons of Jacob barred from office members "previously convicted for any criminal offence," but other synagogues apparently considered the 'good character' requirement for membership sufficient to cover such cases. More recently, some of the Orthodox synagogues have instituted observance requirements for certain office holders, especially the *parnass* and *gabbai*,<sup>30</sup> who have responsibility for the conduct of prayer services. Sometimes, members of the religious, cemetery, and *kashruth* committees are also required to be observant. For example, the 1995 constitution of Congregation Beth Ora in St. Laurent, a suburb of Montreal, requires the *parnass* to be "observant of the traditional laws of the Sabbath and Kashruth." *The General By-law* of Toronto's Shaarei Shomayim Congregation, amended to 1994, is even more specific, declaring the *parnass* and *gabbai* "eligible for office only if observant in the traditional laws of the Sabbath and Kashruth in accordance with the tenets of traditional Orthodox Judaism." No such obligations are placed upon the president or other senior officers. The 1983 constitution of Magen David Sephardic Congregation in Toronto stipulates that members of the Religious Committee, including the Parnas[s], shall hold office only if, "in the opinion of the Board, [they] are qualified ... [by virtue] of their religious background, strict observance of the commandments and knowledge of the sephardic [*sic*] traditions." A bylaw enacted a year later reflects the realism characteristic of many Sephardic leaders. It states that the *parnas[s]* and *gabbai* "*when practicable, shall be eligible for Office only if observant in the Traditional Laws of the Shabbat and Kashruth in accordance with the tenets of Traditional Orthodox Judaism*" (italics added for emphasis).

One qualification for synagogue office holders that has been almost universally modified in recent years is gender. In fact, with regard to governance in general, there have been radical shifts in the role of women in almost every congregation of every denomination. When membership was limited to males, elected office was, by definition, denied to women, although some synagogues reserved a seat on the board for the president of the sisterhood, albeit not always with a vote. (An interesting exception was Temple Emanu-El in Montreal. Its 1922 bylaws permitted "wives of members in good standing ... to serve on the Board.")



Once women gained the constitutional right to full membership, Reform, Conservative, Reconstructionist, and at least two Orthodox synagogues, the Spanish and Portuguese and Tifereth Beth David Jerusalem, both in Montreal, enshrined full access to all elected offices in their constitutions.<sup>31</sup> Many Orthodox synagogues, however, particularly in the Toronto area, even in their most recent constitutions, have excluded women from some offices and/or placed limitations on the number of women trustees. (It may be noted that, while Jewish law can be interpreted to bar women altogether from congregational office, there is no clear *halakhic* justification for partial restriction, references to "Orthodox Jewish Tradition and Custom"<sup>32</sup> in constitutions or glosses notwithstanding.)

Some examples of Orthodox approaches to the question are instructive. The 1995 constitution of Congregation Beth Ora in St. Laurent (Montreal) permitted women to be elected secretary, treasurer, or trustee for youth, but not president, vice-president, or *parnass*; it limited women's participation on the board of trustees to one-third of the members. A 1994 amendment to the *General By-law* of Toronto's Shaarei Shomayim eliminated the constitutional provision barring women from occupying more than thirty per cent of the positions on the board of governors. It retained, however, the prohibition against women being "eligible for election and/or appointment as Senior Officers [president, vice-president, secretary, treasurer] of the Congregation" and against their being "permitted to hold the position of Chairman or co-Chairman of the Religious Committee, the Cemetery Committee and/or the Minyan Committee." The 1987 constitution of Toronto's Beth Jacob V'Anshei Drilz Congregation mandated the inclusion on the board of governors of three representatives of the congregational sisterhood, but declared that except for them, "the Board of Governors shall consist exclusively of males." The 1991 bylaw of Toronto's Kehillah Shaarei Torah stipulates no qualifications for officers other than gender. Its board of directors is to have eleven members "not more than 40% of ... [whom] may be women." Should women candidates receive sufficient votes to qualify for a greater number of board positions, the women with the lowest number of votes are to be disqualified and their places taken by men with the next highest number of votes. Women, moreover, are not "eligible to be the President, a Vice-President, Secretary or Treasurer of the Congregation"; and they may not hold more than forty per cent of the seats on the executive committee. As with other issues, the 'modern Orthodox' congregations of Toronto are among the least liberal with regard to women and governance.

## Conclusions

It is clear that, since the 1980s, Canadian synagogues have devoted considerable attention to their constitutions. This activity would seem to reflect the interest in constitutional legislation sparked by the patriation of the Canadian constitution in 1982 and the subsequent enactment and development of the *Charter*. As noted, only two congregations – the Reconstructionist synagogues in the country's two largest cities – have attempted to any extent to frame their basic laws in Jewish terms. These congregations can be located towards the less traditional end of the religious spectrum. That in organizing themselves, they have turned, in some measure at least, to the Jewish political tradition shows that, whatever the degree of their orthodoxy, they are grappling with their Jewish heritage in ways that more traditional congregations are not. (That the Reconstructionists are heirs to the philosophy of Mordecai Kaplan, who viewed "Judaism as a civilization," may have something to do with the tone of the Reconstructionist constitutions.)

More specifically, the Canadian synagogue constitutions of the last two decades demonstrate extensive modifications to the notions of citizenship and governance prevailing in Canadian synagogues. For the most part, the new approaches mirror shifts in behaviour and belief which have occurred in other Jewish communities all over the world and among non-Jews as well. With the exception of one Sephardic congregation in suburban Toronto, change is reflected in the constitutions of all mainstream Canadian synagogues from the most traditional to the least, in all regions of the country, in small towns and big cities.<sup>33</sup>

Alterations to practice and belief have not been uniform, nor have they been identical to those in the United States and other countries. Allowing for local variation, it can be said that the constitutions of congregations of all denominations and groups point to a somewhat more traditional attitude towards Jewish life than is the norm in counterpart American congregations. This should not be unexpected in Canada where, as noted earlier, most people tend to respect the weight of the past somewhat more than do Americans. Canadian Jewish traditionalism may also reflect the fact that Canadian Jews are 'closer to the boat' than their American cousins. They are more in touch with the 'old countries' from which they emigrated more recently than the Jews of the United States, which closed its doors to immigrants just after the First World War. Nevertheless, at the beginning of the new millennium, almost all Canadian synagogues are at least somewhat more

open to the participation of women in the life of the congregation and more democratic in their approach to governance than earlier. Some Orthodox synagogues have hedged their inclusion of women with limitations beyond those mandated even by a strict construction of *halakhah* and have assumed a defensive posture regarding ritual practice, although the latter issue is only briefly discussed in the documents examined. It may be suggested as a general rule, that congregations that consider themselves to be defenders of tradition have tended to become more restrictive and exclusionary in an assimilationist milieu; congregations that view change as a positive principle have tended to become more inclusionary. That, however, does not change the overall picture.

Intermarriage in Canada is one issue that has sparked very divergent constitutional responses related both to local factors and to people's commitment to Jewish tradition. Reform congregations have tended to become more inclusive, undoubtedly in an attempt to keep intermarried couples within the Jewish fold. Some Reform synagogue constitutions have broadened the criteria for citizenship in ways that have no precedent in Jewish history or custom. Orthodox congregations have assumed an exclusionary posture. Conservative congregations have retained inclusive language in their constitutions (that is, "membership open to all Jews"), while most maintain a traditionalist, exclusionary stance against non-Jewish participation in synagogue life.

The most restrictive constitutional regulations, relating both to the participation of women in the life of the synagogue and to the democratic process, have been adopted by Toronto congregations. An outstanding exception is the Reconstructionist Darchei Noam; its constitution endeavours to establish a collaborative working arrangement between the rabbi and the congregation. It may be conjectured that that document reflects both the small size of the congregation and the communitarian or *havurah* atmosphere of the late 1960s, which formed the backdrop for the growth of Reconstructionism.<sup>34</sup> Other Toronto synagogues – Reform, Conservative, Orthodox, and Sephardic, although not necessarily those of the suburbs – have retained conservative constitutions. One Sephardic synagogue, many of whose members are first-generation Canadians, has arrogated total control of affairs to the rabbi and the president, neither of whom can be removed from office. This congregation seems untouched by the spirit of democracy and inclusion now reigning in Canada. Otherwise, the least liberal Toronto synagogues are those of the 'modern Orthodox' trend. Apparently,

their congregants feel most vulnerable to current fashion, in part, perhaps, because many members of those congregations are not observant Jews. But even observant, modern Orthodox Jews, unlike members of ultra-Orthodox synagogues, are in regular contact with gentiles in many settings and essentially share with them a common culture. In Toronto, the multicultural society is highly accepting of Jews; assimilation is not difficult.

Some outlying suburban Toronto congregations have reacted differently to the area's easygoing ambience. There, and in urban neighbourhoods where the Jewish population is small and scattered, some congregations have adopted radical constitutions that welcome non-Jewish membership in the synagogue. Such constitutions suggest that Jews may have relocated to certain areas in order to escape the more rigid requirements of congregations located in the city's core Jewish areas. In part, too, of course, the documents reflect the exigencies of Jewish life in places where there are few Jews. Interestingly, however, the constitutions of small-town synagogues located far from any major Jewish community vary as widely in their openness to women and to non-Jews as those of synagogues in larger centres.<sup>35</sup>

To a degree, Montreal remains binational and bicultural, not multicultural; 'ethnics' (that is, everyone not of French or British ancestry) are still outsiders. Ethnic tensions in Montreal tend to reinforce particularism, and the general society is less open than in Toronto. There is less danger of assimilation in Montreal than in Toronto, and most Orthodox synagogues – modern or otherwise – have not legislated defensive strategies. Two of the Montreal Orthodox synagogues are the most liberal of their denomination with regard to membership and women's rights, although local factors should be noted in both cases. Among the members of Tifereth Beth David Jerusalem, are many professional and academic men and women who are accustomed to equality in most aspects of their lives and who mix freely with gentiles. The Spanish and Portuguese Synagogue is the oldest congregation in the country and, to a degree, affects a patrician air of being above the contemporary fray. Perhaps more to the point, the wife of the rabbi is well-known as a leader of the Jewish feminist movement in North America. Her husband and many members of the congregation support her in these activities.

It is undoubtedly not accidental that two Conservative congregations with explicit constitutional prohibitions on the burial of non-Jews in their cemeteries are located in British Columbia. The west-coast community tends to be more highly assimilated than Jews elsewhere in

Canada. The intermarriage rate is especially high, and many Jews are unaffiliated with the community. In British Columbia, tradition is always under siege, and traditionalists may well feel the need to enact constitutional safeguards.<sup>36</sup>

Constitutions, of course, relate only a chapter of the story. From the documents alone, one cannot tell what, in fact, is done, only what the fundamental law of a particular synagogue community stipulates. But the documents do indicate what principles are endorsed by congregations sufficiently to be given binding, legal form. At the least, they reflect the basic common values of the group at the moment of their writing. As such, they are valuable historical documents, accurate – if limited – signs of the times.

## Notes

- 1 The terms 'intermarriage,' 'interfaith marriage,' and 'mixed marriage,' are used here interchangeably to mean the marriage of a Jew with a non-Jew who has not converted to Judaism.
- 2 For a survey of the growth of intermarriage and its effects on American Jewish practices and policies, see Peter Y. Medding, Gary I. Tobin, Sylvia Barack Fishman, and Mordechai Rimor, "Jewish Identity in Conversionary and Mixed Marriages," *American Jewish Year Book* 92 (1992): 3–77.
- 3 Suggestive and informative discussions of historical and contemporary developments relating to the synagogue in North America can be found in Jack Wertheimer, ed., *The American Synagogue* (Cambridge and New York: Cambridge University Press, 1987).
- 4 See, for example, Exodus 2:21–22; Ruth 1–4; Nehemiah 13:23–31; and other passages. Much has been written on this issue. An older, but still very useful, discussion is that of Yehezkel Kaufman in his *The Religion of Israel*, Moshe Greenberg, tr. (Chicago: University of Chicago Press, 1960), especially pp. 206, 300–01, 451.
- 5 For reviews of the development of Jewish approaches to conversion, see David Max Eichhorn, ed., *Conversion to Judaism: A History and Analysis* (New York: KTAV, 1965); Joseph R. Rosenbloom, *Conversion to Judaism: From the Biblical Period to the Present* (Cincinnati: Hebrew Union College Press, 1978); Robert M. Seltzer, "Joining the Jewish People from Biblical to Modern Times," in Martin E. Marty and Frederick E. Greenspahn, eds., *Pushing the Faith: Proselytism and Civility in a Pluralistic World* (New York: Crossroad, 1988), pp. 41–63.

- 6 See his *The Foundations of the Jewish Polity*, Working Paper No. 33 of the Workshop in the Covenant Idea and the Jewish Political Tradition (Ramat Gan, 1991), pp. 26–28.
- 7 As is the case herein, Jews from Arab and other non-Western countries are often referred to as ‘Sephardim,’ a term properly applied only to those whose families originated in the Iberian Peninsula.
- 8 Many early reformers declared circumcision and baptism to be outmoded rituals, in effect, abolishing the traditional naturalization process. A more contemporary example is the American Reform synagogue cited by Daniel Elazar in his essay elsewhere in this volume. The constitution of that congregation opens membership to “any person who accepts the teachings of Judaism and is of good character.” A similar case is that of Temple Solel in suburban Toronto, cited in this essay. Its constitution allows non-Jewish spouses and children to take full part in religious services and to be elected to any synagogue office.
- 9 The first woman rabbi, Sally Preisand, was ordained by the Hebrew Union College-Jewish Institute of Religion in 1972, although Tehilla Lichtenstein served from 1938 to 1973 as spiritual leader of the Society of Jewish Science, a fringe group in New York City. Lichtenstein had no ordination. See, Paul E. Hyman and Deborah Dash Moore, eds., *Jewish Women in America: An Historical Encyclopedia* (New York and London: Routledge, 1997), s.v. ‘Preisand, Sally,’ and ‘Lichtenstein, Tehilla.’
- 10 For a survey of the development of Reform in Canada, see Michael Brown, “The Beginnings of Reform Judaism in Canada,” *Jewish Social Studies* 34 (October 1972): 322–42.

A discussion of the relative strength of the denominations in the United States can be found in Bernard Lazerwitz, J. Alan Winter, Arnold Dashefsky, and Ephraim Tabory, “A Study of Jewish Denominational Preferences: Summary Findings,” *American Jewish Year Book* 97 (1997): 115–37.

For a discussion of the relative strength of denominations in Montreal and a comparison with Toronto and the United States, see Charles Shahar and Randal F. Schnoor, *A Survey of Jewish Life in Montreal*, Part II (Montreal: Federation of Jewish Community Services of Montreal, 1997), pp. 4–9.

- 11 On the emergence of the Sephardic community in Montreal in recent years, see Shahar and Schnoor, *Survey*, pp. 4–5. Unfortunately, the sample of Sephardi synagogues herein is small. It includes three Toronto congregations and Montreal’s Spanish and Portuguese Synagogue, Shearith Israel. As noted in Jay Eidelman’s essay elsewhere in this volume, however, Shearith Israel was the first congregation established in Canada, and it is not a representative Sephardi congregation. For many years, it was

Montreal's leading synagogue, the patrician congregation of the community. Its membership has always included a significant number of Ashkenazi Jews. The 1920 constitution of the Congregation Agudas Israel of Saskatoon asserts that the congregation was established "to maintain ... a Judaism according to the Sephardi principles." The document was printed in Yiddish and English, and it is very doubtful that the congregation was, in fact, Sephardi. More likely, its members were of Hasidic origin and prayed according to the Hasidic Sfarad Rite.

- 12 The 1903 constitution of Adath Israel Synagogue in Toronto and the 1922 by-laws of Montreal's Reform Temple Emanu-El employ similar language. Adath Israel, now one of Toronto's largest synagogues, began as an Orthodox congregation most of whose members were of Roumanian origin. It is now a suburban Conservative congregation. Emanu-El, established in 1882, was the first synagogue in Canada to be founded as a Reform synagogue. Several of its founders were immigrants from the United States.
- 13 The present study does not include small ultra-Orthodox congregations of which there are quite a few in Toronto and Montreal. Many of these synagogues do not have formal constitutions or their by-laws are standard documents designed merely to meet legal registration requirements. Many – perhaps most – of their members, moreover, endeavour – often successfully – to maintain a large measure of isolation from the gentile world and from the larger Jewish community.
- 14 The 1994 *General By-law* of Shaarei Shomayim Congregation in Toronto and the 1991 bylaw of Kehillat Shaarei Torah in suburban Toronto. Both of these congregations are thought of as modern Orthodox. Both have an upper-middle-class membership. Many members of both are not strictly observant in their Jewish practice. The latter congregation has a large number of members who came to Canada from South Africa.
- 15 The 1987 constitutions of Beth Avraham Yoseph Congregation and Beth Jacob V' Anshei Drilz Synagogue in suburban Toronto. The membership of these two synagogues includes people who define themselves as modern Orthodox. Few of their members fall into the category of 'non-practicing Orthodox,' that is, people who affiliate with an Orthodox synagogue for whatever reason, but are not traditional in their Jewish practices.
- 16 Constitution, n.d.
- 17 Abir Yaacob does not have 'members' but 'regular participants.'
- 18 The 1982 constitution of Temple Har Zion in suburban Toronto, the 1987 by-laws of Temple Beth Ora Congregation in Edmonton, and the 1990 constitution and by-laws of Temple Beth Tikvah in Regina, for example.

- 19 The 1987 by-laws of Temple Beth Ora in Edmonton, also cited in n.18 above.
- 20 For example: the 1980 and 1991 by-laws of Temple Emanu El-Beth Sholom, Montreal; the 1992 constitution of Temple Solel in Mississauga, a suburb of Toronto; the 1978 by-laws of Temple Shalom Congregation in Kitchener-Waterloo; the 1995 constitution of Congregation Iyr-Ha-Melech in Kingston; and the 1981 constitution and by-laws (amended to 1991) of Temple B'nai Tikvah in Calgary.
- 21 Founded in 1973, the temple had limited membership to Jews in its original constitution and by-laws of 1974. Persons "married not in accordance with Jewish law" were directed in that document to "consult the Rabbi who" would make "recommendations to the Membership Committee." By the time its new constitution was promulgated in 1992, policy had changed.
- 22 For a thumbnail summary of Conservative norms, see *The Summary Index of the Committee on Jewish Law and Standards* (New York, 5754 [1994]), *passim*.
- 23 Barry A. Kosmin, comments, in "Symposium – What We Have Learned," in Jack Wertheimer, project director and ed., *Jewish Identity and Religious Commitment* (New York: Jewish Theological Seminary of America, 1997), p. 57.
- 24 Presumably, the Committee on Jewish Law and Standards of the Conservative Movement.
- 25 *Summary Index*, 9:13.
- 26 See also the 1909 declaration of incorporation of the Orthodox Congregation of the House of Jacob in Calgary.
- 27 1987 constitution, Beth Avraham Yoseph.
- 28 *Ibid*.
- 29 An exception is the 1993 *Constitution and By-Laws* of Congregation Beth Israel in Vancouver. According to that document, no special majority is required for amendment. This may reflect the more democratic ambience of western North America.
- 30 These terms are now often used interchangeably to refer to synagogue members who have assumed responsibility both for maintaining decorum and conducting worship services. Earlier, however, especially in Sephardic congregations, the *gabbai* assumed such responsibilities, while the *parnass* looked after secular congregational affairs. In some Sephardic congregations, the president is still called *parnass*.
- 31 By-Laws of the Corporation of Spanish and Portuguese Jews Shearith Israel of Montreal, 29 November 1992, amended 1 December 1993; Constitution and By Laws Congregation Tifereth Beth David Jerusalem, n.d.
- 32 Constitution, Beth Ora Congregation, St Laurent, Quebec (Montreal), 1995.



- 33 A comparison with the preceding two decades can be drawn from Evelyn Kallen's useful comparison of three synagogues in one Toronto neighbourhood, one Reform, one Conservative, and one Orthodox, in her *Spanning the Generations* Canadian Social Problems Series (Don Mills, ON: Longman Canada, 1977), pp. 61–152.
- 34 As is well known, Reconstructionism was founded by Rabbi Mordecai Kaplan who had studied both at Yeshiva University and the Jewish Theological Seminary. Kaplan's theology and the liturgy that reflected it were rationalistic and humanistic. It is a curiosity of history that the movement Kaplan founded began to grow quickly in the late 1960s after it had been taken over by people with neo-romantic, communitarian leanings. Interestingly, in 2002, despite its cooperative model of rabbi/lay leadership, the Toronto congregation dismissed its rabbi following a period of some acrimony.
- 35 A very useful examination of the inter-relationship of Jewish identity and synagogue membership in smaller communities can be found in Sheva Medjuck, *Jews of Atlantic Canada* (St. John's: Breakwater Books, 1986), pp. 82–106.
- 36 Although now somewhat dated, the description of the Vancouver Jewish community in Daniel J. Elazar and Harold M. Waller, *Maintaining Consensus: The Canadian Jewish Polity in the Postwar World* (Lanham, New York, London, and Jerusalem: University Press of America and the Jerusalem Center for Public Affairs, 1984), pp. 385–419 can serve as a useful introduction to Pacific Coast Jewry. For the early period, see Cyril Edel Leonoff, *Pioneers, Pedlars, and Prayer Shawls: The Jewish Communities in British Columbia and the Yukon* (Victoria: Sono Nis Press, 1978).

# They Work in Faithfulness: Studies in the Constitutional Documents of Canadian Jewish Organizations Other Than Synagogues<sup>1</sup>

IRA ROBINSON

## What Do We Mean When We Say "Canadian Jewish Organizations?"

Though individual Jews may well have visited the territory that comprises Canada some time earlier, contemporary Canadian Jews look to the British occupation of Quebec in the mid-eighteenth century as the beginning of their documented, ongoing community presence.<sup>2</sup> Thus the Canadian Jewish community had its genesis during the period when the extraordinary transformation of the social and political condition of the Jews that took place in early modern times was also beginning. Much of our investigation will involve us in examining the manifold consequences of this complex, fateful transformation. One of its major characteristics is that the focus of the general society's perception of Jews changed radically. In ancient and medieval times, both Jews and non-Jews agreed that Jews were members of a nation, exiled from their homeland, and strangers in the lands in which they dwelled. As their status evolved, Jews were no longer being defined as members of an alien national community in exile. Instead, they were to be considered citizens like their fellow countrymen, and their differences could now legitimately be expressed only in terms of religion. As a result, the nature of Jewish identity became quite problematic, as numerous studies have shown. In this volume, where issues of Jewish identity play a large role, the goal is to gain a better understanding of the process whereby the interlocking communities which comprise Canadian Jewry construct their identity. The researchers thus hope to shed light on the dynamic of the modern Jewish experience as a whole.<sup>3</sup> We have examined the constitutional documents of the organizations which collectively make up the entity called Cana-

dian Jewry. The basic assumption is that, whatever else they may be, these documents constitute self-conscious expressions of group identity, a sort of signature which, no less than any other text, is subject to analysis.

In speaking of Canadian Jewish communities, we refer to groups of people who call themselves Jews, who live in a political/social/cultural entity called Canada, and who express themselves through organizations they have created in order to sustain their Jewish identity.<sup>4</sup> These categories are neither rigid nor unchanging. They are, moreover, susceptible to various interpretations. Thus, the question, "What is a Canadian Jewish organization?" is no less momentous and complex than the classic conundrum of the study and politics of contemporary Jewry, "Who is a Jew?"<sup>5</sup> It goes almost without saying that the question, "Who is Canadian?" is nearly as difficult to answer.

As we attempt to answer these basic questions, we must also confront another issue, whether anything is distinctly Canadian about these documents apart from their general North-American Jewish character? In his essay, "The Constitutional Documents of Contemporary Jewry: An Introduction to the Field," Daniel Elazar argues that

in the Canadian Jewish community [as opposed to the United States,] constitutional documents are more likely to express and utilize traditional terminology, in part because Canadian Jewry is far closer to its immigrant roots than U.S. Jewry. (The predominant models for U.S. constitution making go back to the mid-nineteenth century, whereas in Canada the predominant models are of the post World War I period.) Moreover the founders of Canadian Jewry came more directly out of a more articulated Eastern European *kehilla* experience than did the founders of American Jewry.<sup>6</sup>

We have yet to see whether a close analysis of the documents will sustain this theory.

Definitions inevitably affect the way in which a study is organized. Any project of this type needs to establish the selection criteria of the material to be studied. The criteria will elicit certain methodological responses from critics. There are those who construe the term 'Jewish' in a narrow sense, tending to restrict any such study to organizations with clearly Judaic purposes, synagogues for example. They take very seriously the notion that religion is the sole distinction between Jews and their non-Jewish neighbours. Others understand the term more

broadly and assume the inclusion of any organizational venture with which people calling themselves Jews affiliate.<sup>7</sup> They consider that in contemporary North-American society, both ethnicity and religion represent a legitimate differentiating factor.

There is no question that synagogues – the original, and until the mid-nineteenth century, the only Canadian Jewish organizational presence – are crucial to any study of Jewish organizations and constitute central foci for research.<sup>8</sup> They have also performed and, in a number of cases (especially in smaller population centres), still perform activities parallel to those of many of the non-synagogal organizations to be discussed in this chapter.<sup>9</sup>

But in the large urban centres in which Jews, like other Canadians, are increasingly concentrated, the large group of other Jewish organizations is in itself significant. This organizational complexity provides insight into the multiple ways of constructing Jewish identity in contemporary Canadian society. Like other North American Jews, Canadian Jews of each succeeding generation seem less committed to participation in traditional synagogue services and religious ceremonies in the narrow sense.<sup>10</sup> It follows that non-synagogal Jewish organizations fill an increasingly important role in the construction of Canadian Jewish identity, and are, as Goldscheider and Zuckerman say with respect to Jews in the United States, “important bases of cohesion within the community.”<sup>11</sup>

The problematic nature of this issue is exemplified in this study by the Knights of Pythias of Quebec, a fraternal organization in Montreal with a predominantly Jewish membership, that engages in the support of numerous Jewish ‘good works.’<sup>12</sup> On the basis of its inclusion in a list of Quebec Jewish organizations provided by the Canadian Jewish Congress, we invited the Knights of Pythias to participate in this study.<sup>13</sup> Its leadership, however, responded to a request for their constitutional documents as follows:

Even though the majority of the membership of our Brethren in the Domain of Quebec, are of the Jewish faith, we do have Brethren who are not. After much discussion, Pro and Con [*sic*], the decision reached [at the meeting of the Cabinet] was that as our constitution is not of any religion, the content would not be of any use to you.<sup>14</sup>

That the Canadian Jewish Congress includes the Knights in its listing of Quebec Jewish organizations, and that the organization did not wish

to be included in a research project on Jewish organizations clearly indicates shifting definitional ground.

Another aspect of the difficulty with definitions is illustrated by the Associated Retail Grocers' Association of Winnipeg. This organization, whose members engaged in the "grocery, meat, fruit, and/or confectionary retail business," was active from the 1930s to the 1950s. Its by-laws did not define the group in religious or ethnic terms. Like Montreal's Knights of Pythias, however, it was considered in Winnipeg to be a Jewish organization presumably because it had a predominantly Jewish membership.<sup>15</sup> It was certainly defined as Jewish by the Archives of Manitoba, when they responded to our request for the constitutional documents of Jewish organizations. What was Jewish about the calling of retail grocer in an ethnically-defined Winnipeg in these years is a subject beyond the scope of this study.<sup>16</sup> But this example, like the previous one, helps us to understand that there is no generally accepted definition of a 'Jewish' organization. A third example would be the Association of General Studies Teachers in Hebrew Day Schools of Toronto. Here is a group with a significant percentage of non-Jewish members. Should the constitution of this organization be included within our purview? Ultimately, living with ambiguity, and even contradiction, may afford the best possible preparation for gaining insights into the nature of the phenomenon under examination. Anthropologist Clifford Geertz argues that before we can begin to discern general patterns of social organization or behaviour, we must first determine what he calls the "local truths" from a microsociological analysis of particular social groups.<sup>17</sup> Eliciting these local truths from the constitutional documents of Canadian Jewish organizations is yet another way of stating the primary purpose of this study. In the end, we may be provided with a different perspective from which to view the variegated web of Jewish organizational life in Canada.

### **The First Non-Synagogal Organization**

The earliest attempt to form a Jewish organization in Canada other than a synagogue occurred in 1847 in Montreal, then the only numerically significant Jewish community in the country. The group was the Hebrew Philanthropic Society. A year earlier, the city's Spanish and Portuguese Synagogue, Shearith Israel, lost its monopoly as the only synagogue in Montreal.<sup>18</sup> Previously, charitable work and, for that

matter, any other public Jewish activity in Montreal happened within the confines of Shearith Israel. Now action by one congregation would necessarily exclude members of the other, and an effort at communal cooperation was needed on a different level.<sup>19</sup> Unfortunately, no constitutional document of the Hebrew Philanthropic Society has survived. We know, however, that in 1863, the Society was folded into the Young Men's Hebrew Benevolent Society of Montreal, the first organization in Canada other than a synagogue for which we possess a constitutional document.<sup>20</sup>

What do the constitutional documents of that Society tell us? First, like many of the organizations described here, the Society seems to have been in operation for some time prior to the writing of its first constitution, which was printed in 1872.<sup>21</sup> We may assume that members of any organization have to agree on its *raison d'être* and on how to attain its goals.<sup>22</sup> Why wait so long to publish bylaws? Apparently, the catalyst for promulgating that initial formal constitutional document was the Society's incorporation in 1870 and the legal requirement that corporate bodies must conduct their affairs under established bylaws. In fact, were it not for the provisions of the law, there would most likely be a limited number of Canadian Jewish constitutional documents. The legal requirement also explains why, from the very beginning, the documents under review follow a relatively uniform pattern with a minimum of idiosyncracies and tend to concentrate more on issues of finance and the control of real estate than on matters closer to the organizations' purposes. This study, then, deals with *Canadian* legal documents in a very fundamental sense.

The stated aim of the Young Men's Hebrew Benevolent Society – “the relief of distressed or needy persons of the Hebrew Religion”<sup>23</sup> – was entirely consonant with the overt sectarian nature of charitable, as well as social, activity in nineteenth-century Canada. Jews were organizing to provide their co-religionists with the same services that Catholics and Protestants were providing the poor of their communities. Members of the Society had to be of “the Hebrew<sup>24</sup> faith,” over thirteen years old,<sup>25</sup> and unmarried. That only bachelors were eligible indicates that, beyond its charitable intentions, the Society was designed to fulfil some of the social needs of Montreal's young Jewish men.<sup>26</sup> The ministers of the two Montreal congregations were included ex-officio among the members of the Relief Committee.<sup>27</sup> That indicates awareness that communal power resided to a large extent with the congregations.

## National Organizations

Since the 1870s, Canadian Jewish communal organizations have proliferated in tandem with the growth of the Jewish population. In a broad sense, the organizations can be divided into three types. Some have a pan-Canadian or national mandate; others are regional in scope; a third group serves a local community or a particular constituency.<sup>28</sup>

Historically, the most prominent national organization has been the Canadian Jewish Congress. CJC was organized and exists as the unified representative body of Canadian Jewry. Founded in 1919, CJC essentially defined the idea of Canadian Jewry on a Dominion-wide basis at a time when Canada itself was looking for its independent voice in the world. Though it lapsed shortly after its founding, the challenges to world Jewry presented by the rise of Nazism in Germany in 1933 brought about its reestablishment in 1934. Since that time, CJC has enjoyed institutional continuity and considerable renown both within Canada and on the world Jewish scene. It is widely regarded as the 'Parliament of Canadian Jewry' and as that community's public face in society, politics, and beyond. Elazar notes that CJC represents a distinctly Canadian orientation towards a comprehensive organization reflecting all aspects of communal life in its constitution of 1934.<sup>29</sup> In that document, CJC defined itself simply as a "Dominion Organization of Canadian Jews."<sup>30</sup> In that, it was decidedly similar to the *kehilla* model of communal governance attempted in New York and other North American urban centres in the early twentieth century.<sup>31</sup> It is noteworthy that this model had more success in Canada than in the United States.<sup>32</sup>

The 1951 constitution of the Congress indicated its concern with developing "the highest standards of citizenship in the Jews of Canada"<sup>33</sup> by opening membership widely to "every Jew, eighteen years of age or over, male or female residing in Canada who makes a monetary contribution in furtherance of the aims and objectives of the organization."<sup>34</sup> In doing so, Congress opened itself to the widest possible participation on the part of the community. On the other hand, it hedged its bets by giving its national executive the right to exclude "persons who are members of an organization which is itself ... in opposition to the aims and objectives of the Congress."<sup>35</sup> This attempt to define and limit its constituency is, as we shall see, typical of Canadian Jewish organizations. It is interesting to note that the organization did not receive its Letters Patent until 1952, even though by then it had been active for two decades.

Over the years, several organizations have rivaled the Canadian Jewish Congress in its role as the comprehensive, national Jewish organization for Canadian Jewry. One is the Canadian Zionist Federation which pre-dates the CJC. Another is B'nai Brith Canada. The rivalry is immediately evident in the 1993 mission statement of B'nai Brith:

B'nai Brith Canada brings men and women of the Jewish faith together in fellowship to serve the Jewish community through combatting anti-semitism, bigotry and racism in Canada and abroad; carrying out and supporting activities which ensure the security and survival of the State of Israel and Jewish communities worldwide; community service through various volunteer activities, cultivation of leadership, charitable work, advocacy and government relations.<sup>36</sup>

Of late, in a process paralleling developments among American Jews, the Council of Jewish Federations of Canada has achieved a major leadership position in the community; its power is demonstrated by the 1994 revision to the constitutional document of the Canada-Israel Committee. Originally, the Committee was sponsored by and accountable to what its constitution referred to as the "principal organizations" of the Canadian Jewish community, namely the Canadian Jewish Congress, B'nai Brith Canada, and the Canadian Zionist Federation, as well as the Federations of Montreal and Toronto and the United Israel Appeal Canada. As of 1994, however, the Canada-Israel Committee became accountable solely to the Council of Jewish Federations Canada.<sup>37</sup>

Another Canadian Jewish organization of national scope, although geared towards a specific purpose, is the Jewish Immigrant Aid Society (JIAS), originally founded as a by-product of the 1919 meeting of the Canadian Jewish Congress.<sup>38</sup> Its first Letters Patent (1922) reflect the priorities of the day and include in their objects the following:

- (e) To discourage ... [Jews from] settling in congested cities ...
- (g) To encourage them to follow agricultural pursuits.

### **Regional, Local, and Special-Interest Organizations**

Every Canadian Jewish community, even those of moderate size, has a Federation of Jewish charities.<sup>39</sup> The Federations of the two largest



Canadian Jewish communities, Montreal and Toronto, have always possessed power beyond the confines of their jurisdictions, due in part to their disproportionate size in relation to the Canadian Jewish community as a whole.<sup>40</sup> In recent years, their power and influence – exercised largely through the United Israel Appeal/Federations Canada – have increased to the point that collectively, through its National Budgeting Committee, Federations Canada exerts control over the budget of all national Jewish organizations including CJC.<sup>41</sup> The Federations' power, influence, and ubiquity command attention.

Elazar has noted that, in their development, Canadian communal organizations have remained more faithful to the traditional norms of European Jewish communities (*kehillot*) than their American counterparts. He observed that

in Canada [as opposed to the United States] the federation or community council constitutions are more in the spirit of the traditional *kehilla* in that they recognize and institutionalize roles for all three *ket-arim*, including a community council for the *keter malkhut*, a rabbinical Vaad Ha'Ir ... for the *keter Torah*, and at least a Kashrut Council or the like for those functions of the *keter kehunah* handled by the community as a whole. The Montreal and Ottawa community constitutions are perhaps the most pronounced examples of this.<sup>42</sup>

Elazar particularly noted the Ottawa Vaad Ha'Ir as a comprehensive organization.<sup>43</sup> How are these observations borne out in our documents?

First and foremost, Federations are voluntary organizations. For example, the 1981 bylaws of the Jewish Federation of Edmonton state that the Federation was conceived as having “evolved in order to bring Community interests together in voluntary association for the purpose of joint planning and action.”<sup>44</sup> Federations strive to be the exclusive representatives of the Jewish community. The Hamilton Jewish Federation states in its 1989 bylaws:

1. The Federation is the sole representative of and the authoritative voice for the Jewish community of the Hamilton Metropolitan Area by virtue of the power vested therein by the Jewish Community.
2. The Federation is vested with general authority in all matters of fund raising, community relations, Jewish education, social plan-

ning and any other matters of general concern to the Jewish community of the Hamilton metropolitan area.

Some smaller Federations, such as the Atlantic Jewish Council, serve an entire region. The Council was designed to carry out many of the functions of Federations in local communities where the Jewish population is sparse. Chief among these is advocacy on issues of public concern. Thus, its 1975 constitution states that the purpose of the Council is "to help perpetuate Judaic and Zionist causes" in Atlantic Canada.<sup>45</sup>

Membership is a key to understanding any organization. When examining the Federation documents, it is important to note the difference between smaller and larger communities. In smaller centres, Federation membership is often seen as stemming from synagogue membership. This presumably reflects a situation in which the individual congregations are relatively powerful, and the community is perceived as uniting the powers of the congregations. The 1944 constitution of the Ottawa Va'ad Ha'Ir is a case in point. While admitting representatives of organizations other than synagogues, it stipulated that "synagogues shall always constitute not less than seventy percent of the total membership."<sup>46</sup> Membership in Kingston's Jewish Community Council is extended automatically to members of the city's two congregations, although a "non-affiliated Kingston Jewish resident" must "request ... to become a member."<sup>47</sup> The London, Ontario, Federation constitution echoes the synagogue-centred nature of communal belonging by speaking of Federation membership as inhering in families (a standard category of synagogue membership) that have contributed to the United Jewish Appeal of London.<sup>48</sup>

The question of whether one has to be Jewish to belong to a Jewish Federation, or, indeed, any other Jewish organization is an important one. In the nineteenth century and the first half of the twentieth, Jewish organizations almost always referred to their prospective members as "Jews" or "Hebrews." This is no longer universally the case. Sometimes, as with the Toronto Jewish Congress (1975–1989)<sup>49</sup> and the Calgary Jewish Community Council (1956–1991), members are still described as "Jewish." In many Federation constitutions, however, as in Montreal,<sup>50</sup> the subject is skirted. This is also true of other organizations which are not religious in nature, such as Hadassah-WIZO<sup>51</sup> and Pioneer Women.<sup>52</sup> Some, like Montreal's Young Men's and Young Women's Hebrew Association (1991) state that "membership ... shall

be open to all.<sup>53</sup> Similarly, the Canadian Chapter of the Israel Medical Association (Toronto, 1975) accepts "all physicians in good standing in Canada without regard to race, colour or creed." By the 1990s, it was more likely to be Orthodox institutions, such as Emunah Women (1988), which continue to list "Jewish" as a membership qualification.<sup>54</sup>

One could infer that this inclusiveness on the part of Federations and other organizations is not an issue in the day-to-day operations of groups which foster the welfare of the Jewish community. The constitutional documents, however, point to problems. For example, the constitution of the Jewish Vocational Service (Montreal, 1980) requires directors to be members of the corporation (for which they must be contributors to Allied Jewish Community Services)<sup>55</sup> and also "of the Jewish faith." The Jewish Family Services of Montreal (1993) also specifies that its board members must be "Jewish Member[s] of Federation/CJA."<sup>56</sup> What no constitutional document does is define 'Jewish' for the purposes of membership. Among social and fraternal organizations, most are unlike Hamilton's Grand Order of Israel (1967) which recommends standards of Jewishness such as marriage within the Jewish fold.<sup>57</sup> Even in Orthodox Jewish organizations, the issue of standards is unclear. For example, the 1984 constitution of Emunah Women of Canada requires the president and the National Administrative Board chairperson to be "Sabbath observers," implying that many rank-and-file members are not, even though observance of the Sabbath is a normative expectation of all Orthodox Jews.<sup>58</sup>

If Jewishness – however defined – is not a universal criterion for membership in Canadian Jewish organizations, what is? In many cases, the only formal requirement for membership in Federation is making a minimum contribution, often as low as \$18.00.<sup>59</sup> The 1975 constitution of the Allied Jewish Community Services of Montreal expanded the notion of membership to include "any person who has contributed financially or has rendered services of a voluntary nature to Allied Services or to any of its constituent members."<sup>60</sup> The 1988 constitution of the same organization, however, reverted to financial contributions as the sole membership criterion; contributing to the Jewish Federation Campaign has, in fact, become the *sine qua non* for active membership in the many Jewish community groups affiliated with Federations. Thus, for example, to become a member of the Board of the Associated Hebrew Schools of Toronto (1975–1987), one must have pledged to the United Jewish Appeal Campaign and be current with payments.<sup>61</sup>

The amount of financial contribution is an area which serves to distinguish organizations. The Sir Mortimer B. Davis Jewish General Hospital of Montreal stated in its 1987 bylaws that members were required "either personally or through their firms [to] contribute annually to the Combined Jewish Appeal of Montreal ... the sum of \$1,000.00 or more," although another provision allowed the officers to waive this requirement.<sup>62</sup> The 1989 constitutional document of the Toronto Jewish Congress provides for the suspension of any member of the Council or the Board of Directors whose contribution to the UJA "is in the opinion of the officers, taking into account all the circumstances, inadequate."<sup>63</sup> In this way, organizations get to define the nature of their "Jewish community."

Membership in Federations or other Jewish organizations is a fundamental norm of contemporary Jewish identity. It is important, therefore, to note that the membership of individuals and organizations in the 'Jewish community' can be terminated, and most Canadian Jewish organizations have included a provision for expulsion in their constitutional documents. Some organizations state clearly general criteria for expulsion, as does, for example, the Atlantic Jewish Council ("conduct which brings discredit upon the Council, the State of Israel or the Jewish community").<sup>64</sup> The 1981 constitution of the Jewish Federation of Edmonton allows for the expulsion of member organizations that have jeopardized "the well-being or good and welfare of the Jewish community."<sup>65</sup> Individuals may be expelled "for any cause which the Jewish Federation may deem reasonable."<sup>66</sup>

## What Does Canada Look Like in These Constitutional Documents?

### *Canadian Jewish Geography*

In trying to deal with the implications of this study's attempt to understand Canadian Jews and their identities, we must surely ask the question, "What is Canadian about all this?" One useful approach in answering the question involves thinking about geography. What Canada looks like to Canadian Jewish organizations is sometimes surprising, yet always instructive. They can and sometimes do construct a 'Canada' different from the political map of the country. Standard political geography generally divides the country into the Maritime Provinces, Quebec, Ontario, the Prairie Provinces, and the Western

Provinces. But this division is only partly reflected in the Canadian Jewish organizational 'map.'

Jewish Women International of Canada (formerly B'nai Brith Women) offers a hint of the geographical complexities. The organization's 1991 constitution defines its jurisdiction as "All of Canada from the Atlantic Ocean to the border of British Columbia." What has happened to British Columbia? It is, one presumes, attached to the Pacific Northwest region of the United States, in other words, lost to 'Canada.'

Similar surprises await those who examine the regionalization of Canada as understood by other Canadian Jewish organizations. The original Jewish division of Canada was established at the 1919 meeting of the Canadian Jewish Congress at which the country was "divided into three territorial districts, namely Montreal, Toronto, and Winnipeg."<sup>67</sup> These territorial divisions were perpetuated in CJC's 1934 constitution.<sup>68</sup>

Other organizational documents have tended to maintain these divisions, often in modified form. The 1988 constitution of the Canadian Friends of the Hebrew University divides the country into an eastern region that includes the Maritime Provinces, Quebec, and Ottawa and a central region that includes "all of Ontario." Incredibly, "all of Ontario" does not include Ottawa. Finally, there are "Midwest" (Manitoba and Saskatchewan) and "Western" (Alberta, British Columbia, and the Territories) regions. The 1991 foundation document of the Jewish Students' Network Canada is even more explicitly Ontario-centred; it established three regions: Ontario, with the exception of Ottawa; a second, consisting of all the provinces west of Ontario, and a third made up of the territory from Ottawa eastward.<sup>69</sup> The assimilation of the Maritime Provinces with Quebec in this regionalization scheme reflects the small proportion of Canadian Jews living in the Maritimes as well as the demographic importance of Quebec's Jewish community. In yet another variation of the map, the Canadian Jewish Congress (1951) and Hadassah-WIZO (1993) include Thunder Bay, at the western edge of Ontario, in their Manitoba region, because the city is closer to Winnipeg than to Toronto.

National organizations often attempt to create and maintain a regional 'balance' that reflects the uneven distribution of the Canadian Jewish population and parallels the Canadian federal constitutional arrangement. Just as two provinces – Quebec and Ontario – exert preponderant power in the House of Commons, the Jewish communities of Montreal and Toronto, home to the majority of the country's Jews, exert overwhelming influence on Jewish organizations.

This effort at balancing was already evident at the 1919 organizing meeting of the Canadian Jewish Congress which determined that

the Dominion executive for the Congress movement shall be composed of five delegates from each district and have its headquarters in Montreal. That the Montreal territory shall have the right to elect eighty delegates to the Congress; the Toronto district seventy delegates; and the Western district, fifty delegates ...<sup>70</sup>

The attempt to strike a balance between Montreal and Toronto is reflected in the composition of the national board of directors of the Jewish Immigrant Aid Society. Its 1992 bylaw decrees that the board is to be composed of ten members from Toronto, ten from Montreal, and a maximum of ten residing elsewhere.<sup>71</sup> The 1993 constitution of B'nai Brith Canada tries to achieve regional "balance" by mandating that eight vice-presidents "be elected on a regional residency basis." Of those, two are to come from Montreal, two from Toronto, two from the Maritimes, Ontario, Quebec (with the exception of Montreal and Toronto), and one each from its mid-west and western regions (the provinces west of Ontario).<sup>72</sup> The 1965 bylaws of the Canadian Association for Labor Israel achieve balance by dividing membership into thirds: one-third from Montreal, Ottawa, and the Maritime Provinces; one-third from Toronto and other Ontario locations; one-third from Winnipeg and western Canada.<sup>73</sup> The 1988 basic document of Emunah Women of Canada specifies that no more than two vice-presidents may come from any one city, thus ensuring representation from smaller communities.

Not all organizations have been successful in achieving cross-country representation. Sometimes small communities are ignored entirely. For example, the 1993 constitution of Hadassah-WIZO<sup>74</sup> has no provision for representation from Prince Edward Island, a province whose Jewish population is no more than approximately 100, although other organizations, notably the Canadian Jewish Congress, go to great lengths to include at least minimal representation of PEI. Not one organization considers the three northern territories, presumably because of their negligible Jewish population.<sup>75</sup>

### *Regional Variations*

Jewish organizational documents reflect events in the different regions of Canada. In documents from the Maritimes, there is evidence of a

shrinking community. For example, the "Rationale," which serves as a preamble to the 1986 constitution of the St. John Jewish Historical Society, goes beyond concern for the preservation of historical material.<sup>76</sup> The New Brunswick document states that, "because the community looks to the future with uncertainty, we feel it is imperative to record its contributions and preserve its history for posterity." The 1975 constitution of the Halifax-based Atlantic Jewish Council states that it will not dissolve "as long as there are people of the Jewish faith living in the Atlantic region."<sup>77</sup> In Quebec, the troubled nature of the relationship between the Montreal Jewish community and its provincial environment is manifested in the Montreal Federation/CJA 1992 constitution; it vows to provide "the leadership and resources that will assure the continued flourishing of the Montreal Jewish community."<sup>78</sup>

### *The Montreal-Toronto Rivalry*

Historically, Montreal was the largest and most influential centre of the Canadian Jewish community. In the last few decades, however, Toronto has assumed this position. Accordingly, a number of Canadian Jewish organizations, such as JIAS Canada, have moved their head offices from Montreal to Toronto.<sup>79</sup> An example of the resulting tension between the two communities can be found in the 1972 constitutional document of the Pioneer Women, which states that any proposed move of its head office from Montreal would have to be submitted to the national board for study at least six months prior to a convention.<sup>80</sup> Nonetheless, the organization recognized the difficulty of maintaining headquarters in Montreal by mandating that, when the president does not live in Montreal, "business ... shall be carried on alternately by two Metropolitan Boards, one in the President's city and one in the National Office City [Montreal]."<sup>81</sup>

### *Language Questions*

Both the language in which these constitutional documents are written and the language used when conducting a group's business are revealing. A constitution written in Yiddish, for instance, reminds both members and outsiders of the organization's link to Jewishness, even when the ubiquitous presence of the English language is acknowledged.<sup>82</sup> The Hebrew Sick Benefit Association of Montreal, for example, stipulated in its 1892 Yiddish-language constitution, that "the business and

correspondence of the organization shall be carried on in the Yiddish language. However each brother is allowed to express himself in the English language."<sup>83</sup> By the 1950s, Yiddish, while still spoken by a significant number of Canadian Jews, was noticeably declining. Its use was more widespread among 'secular' Jewish organizations, like the United Jewish Peoples' Order (UJPO), which sought an alternative to religion as a basis for Jewishness. As late as 1990, the UJPO constitution expressed a desire to promote "a wide variety of cultural activity in both Yiddish and English."<sup>84</sup> Even within the most traditional layers of the community, however, the attitude towards Yiddish became ambivalent in the postwar years. In its 1958 by-laws, the Jewish Community Council (Vaad Ha'ir) of Montreal included the following article: "The official language of the Vaad Hoir [*sic*] shall be Yiddish. Minutes or correspondence, wherever possible, shall be conducted in either Yiddish or English."<sup>85</sup> By 1994, the Vaad's constitution omitted an "official language" clause.

Another issue surfacing mainly in Montreal-based organizations, involves English/French bilingualism, an issue which did not concern the Canadian Jewish community until the 1960s. The 1959 constitution of the Montreal Federation of Jewish Community Services was an English-only document. The 1965 constitutional document of its successor organization, the Allied Jewish Community Services of Montreal, also contained no French. The 1975 constitutional document of AJCS, however, proclaimed a new bilingual name for the organization: "Allied Jewish Community Services of Montreal-Services Communautaires Juifs de Montréal."<sup>86</sup> Similarly, the bylaws of the Canadian Jewish Congress Eastern Region appeared in a bilingual format in 1975.<sup>87</sup> In its 1979 constitution, Montreal's Jewish Educational Council identified itself in four languages: English, Hebrew, Yiddish, and French;<sup>88</sup> its 1993 document moved French to second place, after English.<sup>89</sup> The 1993 constitution of B'nai B'rith Hillel Foundation of Montreal stipulates that notice of its meetings "shall be inserted in a French-language newspaper and in an English-language newspaper."<sup>90</sup> The 1982 document of the Young People's Federation of AJCS mandated that the president, vice-president, and director must have a working knowledge of both English and French. By the 1990s, promulgation of bilingual constitutional documents in Montreal had become common,<sup>91</sup> though other languages were also represented within the documents. For example, in its 1993 constitution, the Association of Jewish Day Schools, whose goal is to represent the linguistic and ideological spec-



trum of the Jewish schools of Montreal, the four languages of the city's educational establishment are represented, although only English and French are termed 'official.'<sup>92</sup> This symbolizes the Association's desire to "encourage the growth of Jewish Day Schools ... while not impinging on the sovereignty or autonomy of any Member."<sup>93</sup> It also serves to emphasize further the sensitivity of the Jewish educational establishment to the nuances of the politics of education and language within Montreal Jewry.

A unique aspect of Montreal's Jewish community is its large and active population of Sephardic Jews, the majority with roots in francophone North Africa. This group has become a community unto itself, whose relationship with Ashkenazi anglophone Jews has at times been strained. The 1991 Statuts of one of its major representative organizations, the Communauté Sépharade du Québec (CSQ), state the main objective of the CSQ as improving the collective well-being of the Sephardic community through the promotion of its religion, culture, and identity.<sup>94</sup> The constitutional document of the CSQ looks towards the creation of a comprehensive Sephardic community operating in all spheres – educational, religious, social, and political – and paralleling the activities of Federation/CJA.<sup>95</sup> In this way, the CSQ attempts to create a distinct society within the Montreal Jewish community while at the same time maintaining contact with the majority by participating in the campaign of Federation/CJA. It behaves like the Province of Quebec, constituting a distinct society within Canada while interacting with the rest of the country. Nationally, the Sephardic community is represented by the Canadian Sephardi Federation. Based in Montreal, the Federation maintains a semi-autonomous branch in Toronto.<sup>96</sup> Reflecting its unique origins, the Canadian Sephardi Federation has official French and Spanish names, as well as an English name.<sup>97</sup>

Emigrants from Israel comprise a significant proportion of Canadian Jewry. Their constitutional documents, however, show few traces of their origin. An exception to the rule is the 1984 foundation document of Beit Halochem Canada, an organization that supports disabled veterans of the Israel Defense Forces and seeks to foster understanding and personal ties between Canadians and Israelis. Its 'Jerusalem Chapter' is made up of Israelis living in Canada. The United Israel Appeal Canada is another organization with linguistic ties to Israel. In 1978, it added to its English name the Hebrew HAMAGBIT HAMOUCHEDET LE ISRAEL B'CANADA [*sic*].<sup>98</sup>

*Canadian Society*

While most of the constitutional documents do not refer explicitly to Canadian society, there are some interesting exceptions. For example, the first item in the 'Objects' section of the 1951 constitution of the Canadian Jewish Congress dealing with the goals of the group states:

To develop the highest standards of citizenship in the Jews of Canada by encouraging, carrying on and participating in activities of a national, patriotic, cultural and humanitarian nature; in the furtherance of the best interests of the country and of the Jewish people.<sup>99</sup>

Interestingly, in 1992, Congress altered the text. Instead of "citizenship in the Jews of Canada," the constitution now reads, "participation in the democratic process by the Canadian Jewish community."<sup>100</sup> This may have been an attempt at encouraging more dynamic participation in the political process on the part of Canadian Jews. By implication, it also defined Canada as a 'community of communities'.

The Ottawa Hebrew Benefit Society (1923) expressed its loyalties to both the country and the Jewish cause by mandating that its meetings open with the Zionist anthem, 'Hatikva,' and close with the singing of 'God Save the King.'<sup>101</sup> The Bialik Hebrew Day School of Metropolitan Toronto strives for balance between Canadian and Jewish loyalties, hoping

to prepare its students for a full and creative participation in the Jewish and general communities and to foster among its students qualities of good citizenship, loyalty to Canada, respect for its laws, and a love for and a strong link with the State of Israel.<sup>102</sup>

Similarly, the 1989 constitution of the Jewish Community Centre of Toronto states that its objective is to help people "achieve an affirmative identification with Jewish life and a deep appreciation of their responsibilities as citizens of Canada."<sup>103</sup>

The constitutional document of the Jewish People's and Peretz Schools of Montreal reflects local realities in going beyond a statement of loyalty to Canada. It states the aim of the school as fostering in its students "a knowledge of and a sense of devotion and belonging to Canada and the Province of Quebec, its people, history and cultures."<sup>104</sup> This pledge, marking a desire to inculcate Quebec as well as

Canadian patriotism, was expanded in the school's 1984 document with the telling phrase: "as well as a particular awareness and appreciation for the special character of the Province of Quebec and an affinity to its language, history and culture."<sup>105</sup>

It is fair to say that all Canadian Jews are conscious of the fact that they are part of a small minority within the Canadian polity, and, not surprisingly, Canadian Jewish organizations express consciousness of living in the non-Jewish world. The Federation of Jewish Women's Organizations (1977), for example, balances Jewish and general community responsibilities by insisting that members donate to both the United Way and the UJA.<sup>106</sup> The London, Ontario, Jewish Federation explicitly seeks, among other things, "the advancement of the welfare of the entire community" and is interested in furthering "Canadian ideals and the democratic way of life," while developing "harmony and good will ... between the Jewish and non-Jewish community."<sup>107</sup> The Pioneer Women (1972) strives to "develop awareness among members of their responsibilities as Canadian citizens and to cooperate with other organizations in the promotion of democratic ideals in Canada."<sup>108</sup>

No organization, however, has been as overt in its commitment to Canadian society as the Jewish War Veterans of Canada. The objectives stated in that organization's 1968 Letters Patent deserve to be cited at length. The Veterans aim

to maintain true allegiance to Canada; to combat whatever tends to impair the efficiency and permanency of our free institutions; to uphold the fair name of the Jew and fight his battles wherever unjustly assailed; to encourage the doctrine of universal liberty, equal rights and full justice to all men; to combat the powers of bigotry and darkness wherever originating and whatever their target; to preserve the spirit of comradeship by mutual helpfulness ... to instill love of country ... in our members and our youth; to preserve the memories and records of patriotic service performed by the men and women of our faith; to honor their memory and shield from neglect the graves of our heroic dead.

In a later Manifesto (1993), the organization let it be known that it supported not only such Jewish causes as the free emigration of Soviet Jewry and the defence of the State of Israel, but also non-sectarian Canadian causes such as national unity and the conservation of energy and natural resources.<sup>109</sup> In the 1990s, the Jewish Immigrant Aid Soci-

ety – whose major purpose is “facilitating the lawful entry of Jewish refugees and immigrants into Canada” – also advocated “humanitarian immigration policies with regard to the persecuted and oppressed from all groups.”<sup>110</sup>

Attempts to harmonize Canadian and Judaic values can be found in many recent constitutional documents. The *Constitutional Bylaw* of the Toronto Jewish Congress (1985–1989), for example, lists, as the first of its goals, “To contribute to the well-being of Canadian society by advancing, in a democratic manner, values that are consonant with Canadian Jewish values and traditions.”<sup>111</sup> A similar attempt to resolve the tension between the parochial and the universal may be discerned in the successive constitutional documents of the Jewish Family Services of Calgary. In 1960, the organization defined its constituency as “Jewish residents in the City of Calgary and district.”<sup>112</sup> The 1992 constitutional revision reaffirmed that “the primary goal of the society is to improve the quality of life for the Jewish people in the City of Calgary and District.” At the same time, it added a declaration of “the dignity and worth of human beings, irrespective of race, sex, age, national origin, religion, colour and creed, handicap or ability to pay,” leading to willingness to provide “services to anyone in need.”<sup>113</sup> Similarly, the 1964 ‘Memorandum of Agreement’ establishing the Jewish Foundation of Manitoba stresses that the founders are “assuming [their] ... duties and responsibilities as citizens of Canada and proclaiming the principles of ... [their] Jewish heritage and origin.”<sup>114</sup>

In an increasingly multicultural Canada, Jews are seen by others and by themselves as one of many ethnic groups.<sup>115</sup> An unusual way of addressing this dynamic may be found in the constitution of the Jewish Community Council of Kingston, Ontario. It mandates the formation of a “Folklore Committee” for the purpose of coordinating Jewish community participation in multicultural folklore activities.<sup>116</sup>

### *Government Support of Social Services*

Many Jewish social welfare organizations were originally established because charity distribution in Canada was overtly sectarian and excluded Jews. Furthermore, Jews did not want to be seen as a burden on society. The 1872 documents of the Montreal Young Men’s Hebrew Benevolent Society are illustrative. Some four decades later, the Letters Patent of the Hebrew Sheltering and Immigrant Aid Society of Saint John (1917) stated that aid would be given to immigrants of the Jewish

faith arriving there, "so that they shall not become public charges or otherwise burdensome, a care and nuisance to others."

This orientation has shifted as the circumstances and funding of social welfare in Canada have been transferred from religious to government agencies. The denial of access to denominationally-organized social services, particularly in Quebec, largely ceased, as governments assumed responsibility for funding social and health agencies. As citizens of Canada, Canadian Jews now enjoy the benefits of universal health coverage. An organization such as Montreal's Jewish Support Services for the Elderly can stipulate in its constitution (n.d.) that its services will complement those in the public sector.<sup>117</sup>

In 1971, the Quebec government takeover of social services led to considerable change within Montreal's Jewish organizational structure.<sup>118</sup> An echo of the changes can be heard in the 1992 constitution of Federation/CJA. There the term "Jewish Public Establishment" is used to refer to "a CONSTITUENT MEMBER whose primary source of support is the government of Quebec and whose clientele is drawn from both the general community as well as the Jewish community."<sup>119</sup>

Health and welfare organizations now typically make no overt mention of Jews and Judaism in their mission statements. They do, however, refer to such things as "the basic Jewish values of social justice and assisting one's fellow man."<sup>120</sup> Provision may be made for an institution's Jewish clientele – especially with respect to *kashrut*<sup>121</sup> or the recognition of 'special holidays,' such as Rosh HaShanah and Yom Kippur.<sup>122</sup> An exception is the constitutional document of the Sir Mortimer B. Davis Jewish General Hospital of Montreal, which contains the following two provisions:

The Jewish General Hospital will continue to maintain an environment which respects the religious beliefs of the Jewish faith. The Jewish General Hospital will continue to play a key role in the maintenance and strengthening of the Jewish community.<sup>123</sup>

In a similar way, Montreal's Association of Jewish Day Schools recognizes its responsibility to represent its members before "Federal, provincial and municipal governments, their agencies and departments" as well as to "all public school boards and departments."<sup>124</sup> Further, the Association stipulates that member schools must have been granted permission to operate under the Private Education Act of Quebec.<sup>125</sup>

## What Areas of Concern Are Expressed in the Constitutional Documents?

### *Youth*

An ongoing issue preoccupying Canadian Jews is how to attract young people into Jewish organizational life. That goal is fundamental to the community's conception of continuity. Already in 1847, the Young Men's Hebrew Benevolent Society of Montreal was established in part to involve young Jewish men in communal activity. More recently, this issue has become a central concern. The 1993 constitutional document of the B'nai B'rith Hillel Foundation of Montreal responded to the fear that the mainstream community was out of touch with the needs of youth. It included a provision mandating that "to the extent possible, the President, the Executive Committee and the Nominating Committee shall nominate as Directors individuals who are active in other Jewish community agencies and organizations."<sup>126</sup> An earlier example of an attempt to harness the loyalty and energies of young people was the establishment in 1982 by the Montreal Federation of a "Young People's Federation" for those between the ages of thirteen and thirty.<sup>127</sup> Its purpose was to "instill a sense of pride in Jewish identity and commitment to the continued growth of the Montreal Jewish community and of Israel."<sup>128</sup> In 1988, the Young People's Federation was renamed the "Young Adult Division" and given the mission "to promote greater Young Adult awareness of and involvement in the community."<sup>129</sup> At least one organization, the Jewish Students' Network Canada, has expressed the feeling of some young people that efforts to satisfy their aspirations have been insufficient. In its 1991 fundamental document, the Network arrogated to itself the special mandate "to act as a catalyst in the Jewish community by confronting those issues that the established organizations at times ignore or do not adequately address."<sup>130</sup>

### *Israel*

One of the most momentous events for Jews in the twentieth century was the creation of the State of Israel. Not surprisingly, since 1948, a major portion of the time and efforts of Canadian Jewish organizations has been invested in support of the state and its institutions. This concern is embodied by the Canada-Israel Committee (CIC), a group that stands at the peak of the Canadian-Jewish organizational structure.

The Committee was set up by the most powerful national Jewish organizations in order to coordinate their positions on Israel and to serve as the community's voice to government and the media on Canada-Israel relations.<sup>131</sup> This coordination is designed to eliminate multiple public statements by organizations that consider themselves responsible for protecting and defending Israel in Canada.<sup>132</sup> The desire to speak with one voice indicates both Israel's importance to the Canadian Jewish community and the delicacy of issues relating to the Middle East. An interesting provision of the CIC foundation document deals with the independence of Canadian Jews with respect to the State of Israel. The document anticipates the possibility of taking a stand in opposition to that of Israel's government. But it recognizes the gravity of such divergence by providing for a larger quorum and a seven-eighths vote for acceptance of any resolution "not compatible with an enunciated policy of the then government of the State of Israel."<sup>133</sup>

The importance of Israel in the construction of contemporary diaspora Jewish identity is recognized most unambiguously in the constitution of an Israel-oriented youth organization, Canadian Young Judaea. Noteworthy is the fact that the group's Hebrew name, "Yehuda Hatzair B'Canada," is listed before its English name and that it prominently displays an untranslated Hebrew term, *hagshama atzmit* (self-fulfilment), in its purposes clause.<sup>134</sup> The main goals of Canadian Young Judaea are the (perhaps) mutually exclusive ones of "assisting members to go to Israel [and] ... assisting the development of members for active leadership in the Canadian Jewish community."<sup>135</sup> In a similar way, the Canadian Zionist Federation (1993) seeks to utilize its Israel connection in order to promote and enlarge the scope of Jewish culture in Canada.<sup>136</sup>

Travel to Israel by Canadian Jews, particularly youth, has been widely seen as a major educational tool in the promotion of Jewish identity. Montreal's Young People's Federation states as one of its goals, "send[ing] an annual leadership mission to Israel, the purpose of which shall be to educate, to increase awareness of the issues affecting Israel, and to increase commitment to community work."<sup>137</sup>

It would not be an exaggeration to say that many, if not most, Israeli<sup>138</sup> educational, religious, and social welfare organizations receive a significant part of their financial support from diaspora communities, and Canada is one of the most important in that respect. Canadian tax laws do not allow Canadians an exemption for charitable donations made directly to a non-Canadian institution. As a result,

various Israeli institutions have established organizations known as "Canadian Friends."

The Canadian Friends groups indicate clearly in their constitutional documents that they do not exist merely to support the needs of an Israeli institution. As stated, their support is intended to foster the social, educational, and religious needs of Canadians. For example, the "Canadian Friends of Haifa University" (1973) specifies among its objectives:

To identify and maintain the interest of Canadian Jewish communities in Jewish and Hebrew studies, traditions and culture ... To create and serve as an intellectual centre for Canadians of the Jewish faith ... To promote the training of teachers to serve Canadian Jewry<sup>139</sup> ... to publish ... for the benefit of Canadian Jewish communities ... books, pamphlets, articles, monographs and other literature dealing with and relating to Hebrew and Jewish culture, the tenets of Jewish religion and the cultivation of Hebrew literature.

Notable is the emphasis placed on Jewish religion on the part of one of Israel's most secular universities.<sup>140</sup> Thus, largely because of tax law considerations – though not exclusively<sup>141</sup> – a cultural force in the Canadian Jewish community has been created. Similarly, Canadian Magen David Adom, an organization created to help Israel's medical infrastructure, asserts its interest in the medical care of Canadian citizens residing in or visiting Israel.<sup>142</sup>

### *Women*<sup>143</sup>

Canadian Jewish women are strongly represented both in general purpose organizations, which seek to attract both men and women to their cause, and in women's organizations. In the earlier documents, however, the position of women in Jewish communal life was not so clear. In order to guarantee the presence of women representatives, the 1944 constitution of Ottawa's Vaad Ha'ir, stipulated explicitly that "women be represented on the Council, [and that] the various Congregations and organizations are empowered to appoint women as well as men in their quota of delegates."<sup>144</sup> As late as the 1960s, women were often viewed as auxiliaries in general organizations and peripheral to the male power base. This fact is manifested in subtle and less subtle ways. For example, the stated "purpose" for the Women's Federation of Allied Jewish Com-



munity Services of Montreal (1968) is "to provide the Jewish community of greater Montreal [with] a group of volunteers who will bring the aims and purposes of the constituent members of Allied Jewish Community Services before the Jewish women of Montreal."<sup>145</sup> Perhaps having sensed the ambiguity of this message, the AJCS adopted Terms of Reference in May 1968, stating that "the function of Women's Federation shall be to develop knowledgeable leadership and to encourage involvement in total community endeavors."<sup>146</sup> The Terms of Reference directed the president of Women's Federation "to present [its] needs and aims ... to Allied Jewish Community Services."<sup>147</sup>

By 1995, Women's Federation had completely revamped its mission, putting the needs of women front and centre, promoting "the growth and vitality of all Jewish women. We ensure that the issues affecting Jewish women are part of the community agenda and are the basis of action."<sup>148</sup> In a similar way, the 1972 constitution of the Pioneer Women had already shown a growing awareness of the change in women's societal roles, setting forth as an objective "to cooperate with women's organizations in programmes for women's social and economic equality."<sup>149</sup>

A curious reversal illustrates the extent to which times have changed with regard to women's issues. Some women's organizations have begun to attract male auxiliary members. For example, the 1993 constitutional document of Hadassah-WIZO of Canada establishes a membership category of "Male Life Associate."<sup>150</sup>

### *Education*

The Canadian Jewish community has come to recognize education as one of the key factors in its continuity programme. Whatever their personal beliefs and ideas, those who are serious about the future of Jewish life in Canada and elsewhere are united in support of education.<sup>151</sup> It is useful to view the development of formal communal involvement in education as an aspect of growing Federation involvement in community life. The 1979 constitution of the Jewish Educational Council of Montreal provided for only two representatives from Allied Jewish Community Services on its thirty-two-member board of directors.<sup>152</sup> By 1984, the number had been reduced to one of twenty-seven.<sup>153</sup> The Council's 1993 constitutional document, however, raised the number of Federation/CJA representatives to five of thirty-six.<sup>154</sup> That document also contained a "Mission Statement" defining the Council as the "edu-

cational arm" of Federation/CJA and expressing support of the "Combined Jewish Appeal as the community's central fundraising arm."<sup>155</sup>

Jewish education in Canada has seen a shift in emphasis. Originally, the community relied on afternoon schools as a Jewish supplement to the general education curriculum of the Protestant (Montreal) or public (elsewhere) school system. Since the 1960s, there has been a decided focus on intensive Jewish education in all-day schools, with afternoon schools becoming increasingly peripheral. This change can be seen in the constitutions of the Jewish People's and Peretz Schools of Montreal. In the 1958 constitution, the school's mandate was to provide "the Jewish curriculum of the Jewish People's and Peretz Schools outside of the regular school hours for pupils who attend the Quebec school system for their general studies."<sup>156</sup> By 1984, this provision had been completely eliminated from the constitution.

The movement away from supplementary schools is not universal. The Downtown Jewish Community School of Toronto, for example, represents a counter-thrust. Its overall objective is to "develop a pleasurable and satisfying orientation to Jewish group life – a sense of community,"<sup>157</sup> through activities such as school-sponsored holiday celebrations and after-school and Sunday classes.

For many years, language divided Canadian Jewish educators. Hebrew was the language of the classical Judaic tradition as well as the language of the Jewish community (*Yishuv*) of Palestine under the British mandate and then of the state of Israel. Yiddish, on the other hand, was the language of eastern-European Jews. It was adopted as a language of instruction by 'progressive' or radical elements of the Jewish community and by the ultra-Orthodox. Language and ideology went hand-in-hand, and schools were created to propagate various approaches to Jewish life.<sup>158</sup> The I. L. Peretz School Association of Calgary, for example, on the basis of "Yiddish language, literature and history" wished to "elevate the cultural status of the Jewish people of Calgary" and to bring Jewish youth closer "to the humane-progressive ideals of modern Judaism."<sup>159</sup> The same 'progressive' ideal motivated Montreal's Jewish People's and Peretz Schools. According to its 1958 constitution, it sought "to imbue the pupils of its school with a sympathetic and constructive understanding of the problems and practices of a progressive democracy and of a pluralistic society." It aimed to inculcate "a high sense of social justice and social responsibility"<sup>160</sup> and "to foster in the young an identification with and an attachment to the progressive, social and cultural ideals of the Jewish people."<sup>161</sup>

Over the years, the influence of Yiddish waned, and that of Hebrew grew. One reason is the centrality of Israel in Jewish life since 1948. Another is the difficulty of teaching children two languages in addition to English and French. The shift is mirrored in the constitutions of Toronto's Bialik Hebrew Day School (1977, 1989). They express a commitment to give students "a thorough grounding in the Hebrew language," but only "a basic understanding of the Yiddish language."<sup>162</sup> The limitations inherent in the curriculum of a supplementary school make any language learning difficult and learning two languages all but impossible. The constitution of Toronto's Downtown Jewish Community School states that the school aims only to "develop a Hebrew vocabulary of key words and phrases ... [and to] introduce modern Hebrew through simple conversation, reading and understanding simple texts, and writing."<sup>163</sup> Even day schools recognize the difficulties of imparting a thorough knowledge of Hebrew and/or Yiddish. Originally, the Jewish People's and Peretz Schools of Montreal was a Yiddishist school. Its 1958 constitution expressed the desire to give "the young generation extensive knowledge of Jewish culture, ancient and modern, in the Hebrew and Yiddish languages, as well as when necessary in the official languages of the country and the province." In the school's 1984 document, however, there is clear recognition of the growing necessity of English and French in the Judaic curriculum: those languages will be "used extensively in order to better conceptualize ideas and strengthen the sense of belonging to the Jewish people, its values and its culture."<sup>164</sup>

Many schools articulate their educational philosophy in their constitutional documents. Especially schools espousing a liberal Judaic philosophy see such statements as necessary. For example, the Downtown Jewish Community School of Toronto states as its objectives "to provide a basis for self awareness as a Jew in a pluralistic community. To present traditional religious concepts with explanations of alternatives – indicating that there are many ways to be a Jew."<sup>165</sup> A similarly open stance is taken by the Leo Baeck Day School of Toronto (1990), sponsored by the Reform movement; it encourages its students to "appreciate and participate in the richness and strengths of a multicultural society."<sup>166</sup>

A sensitive issue in contemporary Jewish schools is the Jewishness of potential students – some of whom will likely not fulfil strict halakhic standards of Jewish identity. That the constitutions of Jewish schools do not, by and large, specify standards of admission serves as

recognition of how troublesome this issue can be. A typical example of avoiding the question is the article, "Admission of Pupils," found in the 1977 constitution of Toronto's Bialik Hebrew Day School. It states that "All children conforming with the rules, regulations and conditions that may be, from time to time, set by the Board of Directors, shall be admitted as pupils."<sup>167</sup> The 1988 constitution of the Hebrew Academy, an Orthodox day school in the Montreal suburb of Côte St. Luc, relegates Judaic aspects of the school's activities to the preamble. In that school, all religious questions, including presumably, the Jewish status of potential students, are referred to the school's educational director. It is his "responsibility ... to consult with outside halakhic authorities" when necessary. Jewish education is not only a matter for schools, but also for summer camps. Manitoba's Camp Massad, for example, was designed as a "total Jewish learning experience."<sup>168</sup> Many adult organizations also see their role, at least in part, as educational. The 1959 foundation document of the Zionist Men's Association of Canada states as one of its objectives the fostering of "Jewish consciousness through the study, appreciation and dissemination of Hebrew language, culture, history of the Jewish people and public celebration of national festivals and historic occurrences."<sup>169</sup>

### *Religion*

In a survey of organizations other than synagogues, it comes as no surprise that there are not many societies dealing with the provision of 'religious' services. A few, however, do. One, which might be classified as a 'para-synagogue,' is the Burquest Jewish Community Association of British Columbia. Among other things, it was established "to serve the religious needs of the Jewish community of Burnaby, Port Coquitlam, Coquitlam, Port Moody, New Westmister and Surrey," as well as its educational, cultural, athletic, and social needs.<sup>170</sup>

Taking a somewhat broader view of religion will bring us to the case of the Montreal Jewish Community Council. Founded in 1922 in an attempt to create an all-embracing *kehila* for Montreal,<sup>171</sup> it ultimately emerged as an organization espousing Orthodoxy and specializing in the ritual certification of meat and other kosher products in the Montreal area.<sup>172</sup> A barometer of the internal structure and progressive 'haredization' (that is, the move towards ultra-Orthodoxy) of the Orthodox Jewish community of Montreal is the balance the Council attempts to achieve on its board. In its 1958 foundation document, the nominations

committee is instructed to "endeavour to maintain equitable representation of ... synagogues, Educational Institutions and Fraternal and other Organizations."<sup>173</sup> In its 1994 constitution, the instructions to the nominating committee with respect to balance are that

[E]very Council member would receive a list of the nominees broken down into four (4) distinct groups, namely 1) Sephardi Community; 2) Chassidic Community; 3) Yeshiva Community; and 4) Greater Montreal Synagogue Communities, unaffiliated with any of the three (3) above. Each Council member would cast a secret ballot listing his choices for the three (3) representatives to each distinct group.<sup>174</sup>

### *Social Life*

One of the major points made by Goldscheider and Zuckerman in *The Transformation of the Jews* is that Jews are Jews in the modern age largely because of their associative patterns.<sup>175</sup> In Canada, Jews have historically socialized together both because they wished to do so and because they were often excluded from social contact with their Christian peers. Social clubs for Jews, particularly for youth, came into being in the late nineteenth and early twentieth centuries. An example is the Concordia Club of Vancouver, founded in the 1920s. The club aimed "to provide a meeting place for the young Jewish men of the City of Vancouver [where they] may meet and become better acquainted with each other on the common ground of good fellowship."<sup>176</sup> Another example is the Jewish Community Players of Saint John, New Brunswick in which membership is open only to those of "the Jewish faith." That organization's original constitution had also mandated that membership was conditional upon the prospective member's "acceptability" to the executive.<sup>177</sup> The constitutional document of the Grand Order of Israel (Hamilton, 1943) states that its purpose is "to unite in bonds of fraternity all acceptable persons of good moral character of sound bodily health and of Jewish faith and origin who are socially acceptable."

### *Landsmannshaftn*

The vast majority of Canadian Jews is of eastern-European origin. This fact helps us to understand the great importance of *landsmannshaftn* in Canadian Jewish life in the first half of the twentieth century. These

associations of people coming from the same European town or area proved very useful in creating a safe space where immigrants could acclimate to their new country.<sup>178</sup> Once established in their new homes, immigrants organized for the purposes of health insurance, death benefits, sociability, and a variety of other activities. The Hebrew Sick Benefit Association of Montreal was a pioneer organization of this sort. According to its 1892 foundation document, its membership consisted of men from sixteen to forty-five, of the "Mosaic faith," sound in body and mind, and six months in the country.<sup>179</sup> Membership in a *landsmannschaft* offered immigrants a unique and secure Jewish venue. While the requirements for membership in some *landsmannshaftn* included being Jewish,<sup>180</sup> in others identity was considered self-evident.<sup>181</sup> For example, Toronto's Apter Friendly Society (1957) offered membership to "all persons born in Apt" without worrying that a non-Jew from the town of Opatów might apply. Jewishness, however, was ethnic for the most part, not religious.<sup>182</sup> While the Jewish faith is mentioned in many *landsmannschaft* documents, the 1931 bylaws of Toronto's Ostrowetz Independent Mutual Benefit Society speak of applicants being members of "the Jewish nation."<sup>183</sup> Originally, the Calgary Jewish Family Loan Association, founded in 1931 as the Polish Jewish Family Loan Association, referred to "persons of the Jewish race" in its eligibility clause. Later, the term "race" was changed to "faith."<sup>184</sup> The Loan Association and others like it were mechanisms used to exploit and strengthen an internal Jewish economy.<sup>185</sup> This can be seen in the documents of the Hebrew Assistance Association (Vancouver, 1979, 1995), which mandate "that both [loan] guarantors wherever possible should be members of the Jewish community."<sup>186</sup>

Often the documents express awareness that members of the *landsmannschaft* had ideological differences. The Ostrowetz Independent Mutual Benefit Society mandated that "questions related to Religion and Politics shall not be discussed at any meeting of the Society."<sup>187</sup>

Many of these organizations attempted to facilitate the observance of traditional Jewish mourning practices, although members might not be particularly observant of other aspects of the tradition. Winnipeg's Linat ha-Zedek and Bikur Cholim Society (1923?) stipulated that when

a member will be deceased (May the Merciful One save us!) the Society must provide a proper funeral. In the house of mourning there must be a *minyán*<sup>188</sup> all the days of the *shiva*<sup>189</sup> (may the Merciful One save us!) ...

A provision in the statutes of the Independent Bnei Avrohom Sick Benefit Association of Winnipeg indicates, however, a decline in the observance of the mourning customs. Among the sick and death benefits available to members is the "*Shiva* Benefit. In case a brother sits *shiva* he collects five dollars. If he does not sit the entire week he will not be compensated."<sup>190</sup>

In many cases, the *landsmannshaftn* provide burial plots. The sometimes problematic nature of Jewish identity is addressed in the 1958 regulations of the Iwanshe Mutual Benefit Society of Toronto. Anyone buried in the society's cemetery must be "of the Jewish faith" and "willing to abide by all rituals and ceremonies which are conducted in accordance with the Jewish religion."<sup>191</sup> The regulations (1950s?) of the Zaglember Society of Toronto are even blunter. They state that "members and their families who are Jews, but not according to the Jewish law have no right to a [cemetery] plot." Toronto's Judean Benevolent and Friendly Society (1953) is also concerned that married applicants for membership "should be legally married and according to the Jewish rites and ceremonies."<sup>192</sup> Its 1974 statutes warn that eligibility for continuing membership is contingent upon retention of "the Hebrew faith."

An interesting oddity relating to Judaic customs appears in the 1937 constitution of the Chessed Shel Emes burial society of Winnipeg. Article nine of the Yiddish-language document states:

*Parshat va-Yehi* [the last Torah portion in Genesis, beginning with the words, 'And he lived.']: 1. The week of *Parshat va-Yehi* shall be celebrated by the members ... and this will remain forever. 2. It will be celebrated in a Jewish hall, in a beautiful Jewish manner, with an obligatory feast.

## Conclusion

In looking at the constitutional documents of Canadian Jewish organizations other than synagogues, numerous facets of many different organizations have been examined. What common threads can be perceived?

For many of the organizations, the Judaic nature of their activities was, in and of itself, a major part of the organization's *raison d'être*. On the other hand, there is a reasonably large number of organizations for

which this is not the case. With the possible exception of a few of the early *landsmannshaftn*, there are no constitutional documents with overtly Judaic language or concepts. In some, there can be found a trace of Judaic notions, such as a requirement of ten directors for a quorum, which may recall the *minyán* or prayer quorum of adult Jews.<sup>193</sup> Nonetheless, almost all Canadian Jewish organizations see their main goal as the strengthening of Jewish life and community.

In recent decades, there has been a retreat from the uniquely Canadian, national organizational model, the Canadian Jewish Congress, based on democratic, universal representation. Supplanting it is the American federation model, based on wealth and status. There is also ample evidence that the map of Canada created by Canadian Jewish organizations, as well as their approaches to the problematics of Jewish identity, show a number of distinctively Canadian traits. Reflecting Jewish settlement patterns in Canada, such organizations must be considered idiosyncratically Canadian. The constitutional documents of Canadian Jewry, which give voice to these social and political elements are, then, valuable evidence of the dynamics of Canadian Jewish life. As self-conscious expressions of identity, the documents present a window onto the re-invention and the constantly evolving process of self-definition that characterize the Canadian Jewish community.

## Notes

- 1 I would like to thank Michael Brown for his criticisms and suggestions; Daniel Elazar for his encouragement; and my research assistant, Paulana Layman, for her efforts and ideas. All of them helped bring this project to fruition. I would like to dedicate this article to the memory of my father, Jacob Robinson (1917–98). His memory is a continual blessing.
- 2 See Gerald Tulchinsky, *Taking Root: the Origins of the Canadian Jewish Community* (Hanover, NH and London: Brandeis University Press, 1993), pp. 8ff.
- 3 For an interesting example of a social-scientific study of modern Jewish community, see Calvin Goldscheider and Alan S. Zuckerman, *The Transformation of the Jews* (Chicago and London: University of Chicago Press, 1984).
- 4 *Ibid.*, pp. 110ff.
- 5 See also Michael Oppenheim, "A 'Fieldguide' to the Study of Modern Jewish Identity," *Jewish Social Studies* 46 (1984): 215–30.



- 6 Daniel J. Elazar, Jonathan Sarna, and Rela G. Monson, eds., *A Double Bond: the Constitutional Documents of American Jewry* (Lanham, MD: University Press of America, 1992), p. 16.
- 7 For most observers of the contemporary Jewish scene, the sole exception to accepting self-identification has to do with the so-called Messianic or Christian Jews, whose self-proclaimed Jewish identity is vigorously disputed by the mainstream Jewish community. The rule of thumb of observers of North American Jewry seems to be that ethnic identification as Jewish is sufficient only when a non-Judaic religious affiliation is absent. Thus one can be a Jewish atheist but not a Jewish Methodist.
- 8 Compare Michael Brown's article in this volume, "Signs of the Times: Changing Notions of Citizenship, Governance, and Authority as Reflected in Synagogue Constitutions."
- 9 Thus Congregation Agudas Israel of Saskatoon, in its 1920 constitution, asserted that it would maintain not merely a synagogue but other Jewish institutions, including a ritual bath, Hebrew school, and Free Loan Association, and "do everything possible, generally, to strengthen the Jewish spirit."
- 10 Goldscheider and Zuckerman, *The Transformation of the Jews*, pp. 184, 225. It should be noted nonetheless that, relative to Jews in the United States, Canadian Jews have a clear tendency to retain elements of the Jewish tradition. Compare Charles Shahar and Randal Schnoor, *A Survey of Jewish Life in Montreal, Part 2* (Montreal: Federation of Jewish Community Services of Montreal, 1997), pp. 4–23.
- 11 Goldscheider and Zuckerman, *The Transformation of the Jews*, p. 225.
- 12 Joel Goldenberg, "Knights of Pythias Kick Off Their Annual Campaign," *The Suburban*, 26 November 1997, p. a–19. Among the charities supported by the Knights are: Chabad House, Hillcrest Academy's Jewish Heritage program, Montreal Holocaust Memorial Foundation, Na'amat Canada, and Free Hebrew for Juniors, not to mention a number of 'Jewish' hospitals in the Montreal area.
- 13 Canadian Jewish Congress, "Quebec Organizations-Directors, July 4, 1995," p. 2.
- 14 David M. Sadovnick, Grand Secretary, Grand Lodge Knights of Pythias of Quebec, letter to Ira Robinson, 11 September 1995.
- 15 The 1931 list of the Association's directors includes only people with Jewish names.
- 16 A similar issue is raised with respect to the constitutional document of Local 181, Bakery and Confectionary Workers International Union of Toronto. Though the document speaks of the workers making traditional

Jewish baked goods, such as bagels and matzos, there is nothing in the document pointing to their ethno-religious identity.

- 17 Cited in Sandra Walker-Ramisch, "Graeco-Roman Voluntary Associations and the Damascus Document: a Sociological Analysis," *Voluntary Associations in the Graeco-Roman World*, Johns S. Kloppenborg and Stephen G. Wilson, eds. (London and New York: Routledge, 1996), p. 142.
- 18 Tulchinsky, *Taking Root*, pp. 41, 49.
- 19 See also Jacques Langlais and David Rome, *Jews and French Quebeckers: Two Hundred Years of Shared History* (Waterloo: Wilfrid Laurier University Press, 1991), p. 24: "The Founding of the YMHBS seems to have changed the way Canadian Jewry perceived itself. For the first time Canadian Judaism was defined by something other than religion. Its members now had a new frame of reference for belonging to the Jewish community and it went beyond their political and ideological differences. No organization or structure, even the synagogue, had priority over the others. Each represented one aspect of Jewish reality and a way of identifying with Jewry as a whole. From then on, Judaism was the sum of all these disparate groups."
- 20 The 1887 edition of the Society's constitution states that it was founded on 23 July 1863 and incorporated on 16 November 1870.
- 21 The "Revised By-Laws" printed in this way were adopted on 13 August 1871.
- 22 A document dated 11 December 1899 gives a history of the organization, including the founding meeting in 1863. CJC Archives.
- 23 (Montreal, 1872) title page.
- 24 In the nineteenth century, Jews often preferred either 'Hebrew' or 'Israelite' to describe themselves and their institutions, because of the often opprobrious ways in which the term 'Jew' was commonly used in English and other languages.
- 25 Thirteen is the traditional Jewish age of majority for males.
- 26 In the 1899 document giving the history of the organization, the restriction of membership to unmarried men was explained in part by the consideration "that the Society would be the means of making the Jewish young men of Montreal better known to one another."
- 27 Article III – Government, section III. This provision was omitted in later Association bylaws.
- 28 An alternative classification is given in Daniel Elazar and Harold Waller, *Maintaining Consensus: the Canadian Jewish Polity in the Postwar World* (Lanham: University Press of America, 1990), p. 21, in which organizations are divided between "territorially and non-territorially-based."

- 29 Elazar, "Constitutional Documents," p. 31.
- 30 (Toronto, 1934), p. 1. Article I. Name. The formula remained in the 1936 constitution but was changed in 1939 to read simply, "the name of this organization is the Canadian Jewish Congress."
- 31 On the *kehilla* movement in New York, see Arthur A. Goren, *New York Jews and the Quest for Community: The Kehilla Experiment, 1908–1922* (New York: Columbia University Press, 1970). For the experience of two other communities, see Ira Robinson, "Two North American Kehillot and Their Structure: Philadelphia and Montreal," *Proceedings of the Eleventh World Congress of Jewish Studies, Division B, The History of the Jewish People, Volume 3, Modern Times* (Jerusalem: World Congress of Jewish Studies, 1994), pp. 139–46.
- 32 See also Elazar and Waller, *Maintaining Consensus*, p. 234, which notes the "kehilla-like" nature of the Ottawa Jewish community.
- 33 Objects, Section A.
- 34 By-Laws, Membership. This echoes the account of H.M. Caiserman, reporting on the principles of the 1919 Canadian Jewish Congress Plenary. Caiserman stated that "Every Jew and Jewess of respectable character eighteen years of age and older, without further qualifications upon payment of a tax of ten cents had the right to elect and be elected." Arthur Daniel Hart, ed., *The Jew in Canada* (Montreal and Toronto: Jewish Publications, 1926), p. 469.
- 35 *Ibid.*
- 36 B'nai Brith Canada District #22 (July, 1993), p. 1.
- 37 Council of Jewish Federations Canada, Constitution of the Canada-Israel Committee, Draft, May 4, 1994, 1, "Composition."
- 38 Joseph Kage, *With Faith and Thanksgiving: The Story of Two Hundred Years of Jewish Immigration and Immigrant Aid Effort in Canada (1760–1960)* (Montreal: Eagle Publishing Company, 1962), pp. 65ff.
- 39 On the Federation phenomenon in the United States, see Jonathan Woocher, *Sacred Survival: The Civil Religion of American Jews* (Bloomington: Indiana University Press, 1986).
- 40 More than two-thirds of the Canadian Jewish population reside in Montreal and Toronto.
- 41 See also Ira Robinson, "Virtual Reality Comes to Canadian Jewry: The Case of the Canadian Jewish Congress Plenary," *Jewish Political Studies Review* 11 (spring 1999): 65–66.
- 42 Daniel Elazar, "Constitutional Documents," p. 17. For an explanation of the three *ketarim* [crowns], see Elazar's article, "Using Foundation Documents in the Study of Jewish Public Affairs," in this volume, p. 21; and

Stuart A. Cohen, "The Concept of the Three *Ketarim*: Its Place in Jewish Political Thought," *AJS Review* 9 (1984): 27–54.

- 43 *Ibid.*, p. 31.
- 44 Article IA – Preamble.
- 45 Article II, section 1.
- 46 3. (c.).
- 47 II. – Membership 1.
- 48 III. i.
- 49 I. A. 1.
- 50 Federation of Jewish Community Services (1959), By-Law Number 1, 5.
- 51 "Any woman in Canada interested in the objects of ... Hadassa-WIZO ... may become a member." Part IV, Article I, Section 1.01.
- 52 Constitution (1972) Article III, Membership.
- 53 Section 1 – Membership 1.1. Interestingly, the National Council of YM/YWHAs lists as its first purpose to "promote religious, cultural, physical, social, civic well-being of Jewish young men and women."
- 54 Article III -Membership, section 1.
- 55 See also the By-Laws of the Golden Age Association (Montreal, 1994) in which members of the Board of Directors must be "contributors of the Combined Jewish Appeal of Greater Montreal to the extent possible." Article IV /I/B) 2) iii).
- 56 5.1.1. See also the 1975 constitutional document of the Jewish Public Library (Montreal) Article VII, Section II a, which restricts membership on the Board to Jewish members of the Library. This provision was changed in the Library's later constitution.
- 57 Article 5A: "if married, married according to Jewish ritual or by way of civil ceremony in accordance with the law." This provision was eliminated in the 1976 constitution.
- 58 Article VII, section 5.
- 59 Bylaws of the Jewish Federation of Edmonton (1981). III/ A / (1)/ a. See also the bylaws of Hamilton Jewish Federation (1989) and Hamilton Jewish Communal Projects (1949–1978). Note that the number 18 has a Jewish resonance. Its numeric equivalent in the Hebrew alphabet [*gematria*] spells 'life.' Both traditionally observant and secular Jews often give charitable donations of \$18 or multiples thereof. Another possible echo of Judaic tradition is the setting of ten as a quorum for meetings, as does, for example, Jewish Family Services (Montreal, 1993, Bylaw 5.4.4).
- 60 By-Law No. 1, section 4.
- 61 V.1. See also Jewish Business and Professional Women's Group (Vancouver, 1995).

- 62 Article 4 – Members.
- 63 XXIII – Suspension A.
- 64 Article III, section 4 (2).
- 65 Jewish Federation of Edmonton (1981), III.B.(5).
- 66 *Ibid.*, III/B/(7)/b.
- 67 H.M. Caiserman, in Hart, *The Jew in Canada*, p. 469.
- 68 III. Constitution 1.
- 69 Schedule A – Regions.
- 70 See above, n.67.
- 71 Article 6 (g).
- 72 Article III – Elections (1) (b) (ii), pp. 8–9.
- 73 By-Law II, Article 1. Membership.
- 74 3.01.
- 75 There is some evidence of a Jewish organizational presence in the Yukon. See “New Jewish Historical Society Founded in the Yukon,” *Association for Canadian Jewish Studies Bulletin* (spring–summer, 1998).
- 76 Compare the constitution of the Jewish Historical Society of Western Canada (1975), II – Objects. A.
- 77 Article XIV, section 1.
- 78 By-Law Four – Object.
- 79 Through a 1992 amendment to its constitution. See also Canadian Society for the Weizmann Institute, By-Law 15, amending By-Law 12, paragraph 2, which also moved its head office from Montreal to Toronto.
- 80 By-Laws, article I.
- 81 By-Laws (1972) III.3 (b).
- 82 Soyer, *Jewish Immigrant Associations*, pp. 57–58.
- 83 Article 1, 4. See also Ottawa Hebrew Benefit Society (1923) 1.4; 12.21.
- 84 Section 1.
- 85 Article 14. This article was eliminated in the group’s 1994 Constitution and By-Laws.
- 86 14 May 1975. By-Law No. 1 – Interpretation, section 1. It may be noted that in the French title, Montreal was spelled in the English manner without an é. The change may be dated to 1970, when the AJCS Comité sur le fait français recommended that bilingualism be adopted with regard to publications and publicity. Elazar and Waller, *Maintaining Consensus*, p. 123.
- 87 Interestingly, in the English version the entity was called the ‘Eastern Region’ whereas in French it was referred to as the ‘Région du Québec,’ though its territory included the four Maritime Provinces.
- 88 I.1 Name.
- 89 1.1 Name.

- 90 Article VII, section 2. Other organizations are less concerned with the language of the newspapers where notices are placed and more concerned that they be 'Jewish' papers. See also Jewish Family Services (Montreal, 1993, 6.3)
- 91 Compare, "Statuts Amendés, Fédération des Femmes de la Fédération CJA," 1995 draft.
- 92 I 1.1, p. 2.
- 93 4.1, p. 3.
- 94 Article 7.
- 95 Article 8 Objectifs. See especially 8.7 "Au niveau financier."
- 96 In an addendum to the Federation's "Statuts," dated Avril, 1989, there are provisions for headquarters in Montreal and a regional office in Toronto. Two bank accounts – one in Montreal and one in Toronto – are specified.
- 97 Federacion Sefardita Canadiense. Article 1.
- 98 Supplementary Letters Patent (1978).
- 99 This is in contrast to the original CJC constitution (1934), which simply spoke of safeguarding "the social, political, economic and religious rights of the Jews." Article II. – Aims (a).
- 100 Canadian Jewish Congress (1992) Annex I.
- 101 12.15.
- 102 1977, 1.05 (G)
- 103 Article II – Objectives I. A.
- 104 See also the constitutional document of the Associated Hebrew Schools (Toronto, 1975–1987), which speaks, in section I. 4.e, of instilling in the students "the values, ideals, principles and standards of ethical conduct consistent with good citizenship and respect for the laws of Canada."
- 105 1984, 1.05
- 106 A similar provision is made for membership in the Jewish Vocational Service of Toronto (1993).
- 107 II. sections 4–5. See also Winnipeg Jewish Community Council (1974) II (4).
- 108 II.2.
- 109 National convention, 1993.
- 110 JIAS Mission Statement (1992), Preamble.
- 111 In the group's 1975 document, the corresponding passage sought merely to be "consistent with Jewish values and traditions."
- 112 2.
- 113 Preamble. In the constitutional documents of the Jewish Family Services of Edmonton, the overtly Jewish references in the 1955 constitution were eliminated in the 1986 update. Similarly, the Vancouver Jewish Family

Service Agency made no mention of specifically Jewish concerns in its "Purposes."

- 114 The memorandum is dated 14 January 1964. What is unusual is that the equivalent Hebrew calendar date, 29 Tevet, is also given.
- 115 Thus the New Fraternal Jewish Association of Toronto (1960) addresses, among other things, Jews' contribution to "Canada's ethnic culture."
- 116 (1993) VII.1.f.
- 117 4.03.
- 118 See also "Preamble," By-Laws, Baron de Hirsch Institute (1993). Also the governance of the Jewish General Hospital of Montreal is determined by Quebec's *Act Respecting Health Services and Social Services*, By-Law No. 1, Governance, Chapter II, section 1, par. 5.
- 119 By-Law One – Interpretation, 1.
- 120 Jewish Family Service (Montreal, 1993), Preamble.
- 121 Compare, Jewish General Hospital (Montreal, 1993) By-Law No. 1 Chapter IX, 85. See also Jewish Rehabilitation Hospital, Laval, Quebec By-Law 3 (1990); "Administration Policies (1992), Role of the JRH." Other Jewish organizations similarly wish to maintain the observance of *kashrut* either on principle or for the convenience of members who eat only kosher food. See B'nai Brith Upper Canada Lodge #1615 (Toronto, 1995) IV. 20.
- 122 Project Genesis (Montreal, 1979) Article XXXVIII 3. 10–11.
- 123 1993–1994 Annual Report, p. 1.
- 124 1993, 4.4 a), d).
- 125 1993, 5.1 b) (ii).
- 126 Article VIII – Board of Directors 1.08.
- 127 Article IV – Membership. Note that thirteen is the usual age of entry to secondary school (grade 7) in Quebec. It may, however, also echo the traditional age of Jewish male adulthood, a passage marked by the *bar mitzvah* ceremony.
- 128 Article III – Purpose c).
- 129 8.5.11.2.
- 130 4.
- 131 1994, 2.1.
- 132 See also Canadian Zionist Federation (1993) 4.1 (c): "to assist in maintaining friendly relations between Canada and the State of Israel and to safeguard Israel's good name in Canadian public opinion."
- 133 3.1 (e) (4).
- 134 Sections I and II.
- 135 Section III.
- 136 4.1 (c).

- 137 1982 Article VI – Standing Committees c).
- 138 Though the institutions in this category are mostly for the support of Israeli institutions, there are exceptions to the rule. Prominent examples include Canadian Friends of Yeshiva University and of the Jewish Theological Seminary of America, both New York institutions.
- 139 This particular point is emphasized in great detail in the *Letters Patent of the Canadian Friends of the Hebrew University* (1966): “to promote the training of teachers to serve Canadian Jewry and in particular its Talmud Torah schools, congregational, communal, parochial and neutral schools; to aid the Hebrew University of Jerusalem in its program of teacher training to the end that the Hebrew schools in the many communities of Canada will benefit and profit from the modern techniques and educational methods of the Hebrew University,” (p. 3). See also the 1993 Constitution, object 4, which speaks of “quality educational programmes in Jewish communities across Canada.”
- 140 The 1961 document of the Canadian Friends of Bar-Ilan University, representing Israel’s Orthodox University, goes beyond this provision for cultural activities for the benefit of Canadian Jews. In By-Law 3, it speaks of founding an institute to prepare prospective Canadian students for admission at Bar-Ilan.
- 141 It can be argued as well that the Canadian Friends engage in local cultural programming at least in part as an expression of the Zionist conception of *gegenwartsarbeit* – spreading the Zionist message in the Diaspora.
- 142 II.1.
- 143 See also Michael Brown’s discussion of women in the synagogue in his essay, “Signs of the Times,” which appears elsewhere in this volume.
- 144 3. (d).
- 145 Article II – Purpose.
- 146 This point is echoed in the Constitution of the Jewish Women’s Federation of the Toronto Jewish Congress (1984), III.3.
- 147 Guideline 5.
- 148 Article II.5.
- 149 Article III – Mission Statement.
- 150 Part VI Schedule of Fees.
- 151 See also Toronto Jewish Congress (1991), which states as its second object, “To foster high communal standards of formal Jewish education and culture as well as religious identification, all directed to the strengthening and enhancement of personal and community Jewish identity.”
- 152 2.2 a.



150 Analysis and Discussion

- 153 2.2 a.
- 154 3.1.3.
- 155 1.2.
- 156 Aims, section b., p. 1.
- 157 (1981) 2 a, p. 1.
- 158 See David Roskies, "A City, a School, and a Utopian Experiment," in *The Jewish Search for a Usable Past* (Bloomington: Indiana University Press, 1999), pp. 146–57.
- 159 I.L. Peretz School Association, Calgary (2) (A)–(B).
- 160 Aims, section e.
- 161 *Ibid.*
- 162 1.05 D).
- 163 2 b) vii–viii.
- 164 1.02.
- 165 2 a) v–vi.
- 166 I. – Mission Statement.
- 167 1977, 1.04.
- 168 Camp Massad (Winnipeg, 1984).
- 169 2. b).
- 170 (New Westminster, 1976). It is perhaps noteworthy that the "religious needs" clause, 2 (f), is the sixth of eight objectives listed.
- 171 Ira Robinson, "The Foundation Documents of the Jewish Community Council of Montreal," *Jewish Political Studies Review* 8 (1996): 69–86.
- 172 Article 2 – Purposes.
- 173 Articles 3 and 11 (f).
- 174 Article 11 (h). It should be noted that the *kashrut* supervising body in Ottawa has not gone in this direction and continues to include broad representation.
- 175 Goldscheider and Zuckerman, *The Transformation of the Jews*, p. 225.
- 176 Objects 2 (a).
- 177 Article 3, Section 1. This provision was stricken from the constitution at some point.
- 178 For an analysis of the American *landsmannschaftn* scene, see Hannah Kligler, "'That Will Make You a Good Member': the Rewards of Reading the Constitutions of Jewish Immigrant Associations," in Elazar, Sarna, and Monson, *A Double Bond*, pp. 75–92.
- 179 Article 3, 1. A similar organization was the Hebrew Sick Benefit Association (Winnipeg, 1906?).
- 180 Compare, Chenstochover Aid Society (Toronto, 1934–1980), 4.
- 181 Compare, Independent Workers Circle (1938). See also Daniel Soyfer, *Jewish*

*Immigrant Associations and American Identity in New York, 1880–1939* (Cambridge: Harvard University Press, 1997), p. 74.

- 182 See also the Canadian Hebrew Benevolent [*sic*] Society (Toronto, 1980), which does not specify Jewishness in its membership criteria.
- 183 IV.2.
- 184 This is a small indication of the tension between the concept of Jews as members of a religious or an ethnic group.
- 185 On this phenomenon in general, see Shelley Tennenbaum, *A Credit to Their Community: Jewish Loan Societies in the United States, 1880–1950* (Detroit: Wayne State University Press, 1993).
- 186 February 1995, 16.
- 187 I. 4.
- 188 A quorum for prayer of ten male Jews over the age of thirteen.
- 189 The seven-day period of mourning for relatives.
- 190 See also Judean Benevolent and Friendly Society (Toronto, 1953), which refers to a benefit for “confined mourning” (i.e., *shiva*) pp. 32–33.
- 191 p. 14, (f). See also Lagover Mutual Benefit Society (Toronto, 1938) IV.2. The 1994 statutes of the Linitzer Sick Benefit Society (Toronto) forbid the burial of “one who is not of the Jewish religion” in the society’s burial plot. (no. 6, p. 11.).
- 192 p. 19. See also Ottawa Hebrew Benefit Association (1923) 3.1. This concern is echoed in the 1994 constitutional document of the Linitzer Sick Benefit Society (Toronto) which requires proof from members that the marriage was “according to Jewish custom and rights [*sic*]” 2.2.
- 193 For example, Canadian Jewish Congress (1936), III. 20; Canada-Israel Committee (1994) 3.1 (d) (5).

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## **PART III**

### **Selected Documents (Excerpts)**

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# Charitable and Welfare Organizations

## Young Men's Hebrew Benevolent Society of Montreal<sup>1</sup>

REVISED BYE-LAWS (1871)

Passed and adopted at the annual Meeting of the Society, held on the 13th August, 1871.

### ART. I. – NAME.

Sec. I. – This Society shall be known by the name and title of 'THE YOUNG MEN'S HEBREW BENEVOLENT SOCIETY OF MONTREAL.'

### ART. II. – OBJECT.

Sec. I. – The object of this Society shall be to assist and grant temporary relief to needy and indigent persons of the Hebrew Religion.

### ART. III. – GOVERNMENT.

Sec. I. – The governing body of this Society shall be composed of a President, a Vice-President, a Treasurer, a Secretary, and a Relief Committee of three Members, not officers of the Society.

Sec. II. – The Relief committee shall have the power, in case of necessity, to add to their number.

<sup>1</sup> This was the first Canadian Jewish non-synagogal organization.

Sec. III. – The clergymen of the two Congregations<sup>2</sup> shall be Ex officio Members of the Relief committee.

#### DUTIES OF OFFICERS.

##### ART. IV – THE PRESIDENT.

Sec. I – It shall be the duty of the President to convene all Meetings of the Society through the Secretary, and shall preside at the same, and shall in all cases have the casting vote.

Sec. II – He, or the acting chairman shall sign the minutes of all meetings; and shall also sign all documents drawn against the Treasurer.

Sec. III – He shall have the power, in case of urgent necessity, to grant immediate relief; but in no case shall such assistance exceed Five Dollars.

Sec. IV – He shall be an Ex officio member of all committees, and chairman of the Board of Relief.

##### ART. V – VICE-PRESIDENT.

Sec. I – He shall, in the absence of the President, be empowered to perform all the duties appertaining to that office.

Sec. II – He shall be, Ex officio, a member of the Board of Relief.

##### ART. VI – TREASURER.

Sec. I – He shall receive and collect all monies belonging to the Society, and disburse the same on orders signed by the President, or, in his absence, the Vice-President or acting chairman.

Sec. II – He shall keep a correct account of all receipts and disbursements of the Society, and Shall furnish quarterly statements of its affairs.

Sec. III – He shall be, Ex Officio, a member of the Board of Relief.

<sup>2</sup> The two Montreal congregations at the time were Shearith Israel, the Spanish and Portuguese Synagogue, and Shaar Hashomayim, the Ashkenazic congregation.

ART. VII – SECRETARY.

Sec. I – He shall keep accurate minutes of the transactions of all meetings of the Society, and shall convene the same by notice, when requested by the President.

Sec. II – He shall make out all accounts against Members and Subscribers, and keep the necessary book to enter the same.

Sec. III – He shall be, *ex-officio*, a member of the Board of Relief.

ART. VIII – RELIEF COMMITTEE.

Sec. I – It shall be the duty of this Committee, on receiving due notice from the President, to institute inquiries as to the circumstances and character of the applicant for Relief.

Sec. II – They shall keep a register of the names, age, sex, nativity and character of the applicant for relief and such other information as may be interesting to the Society.

Sec. III – It shall likewise be the duty of this Committee to determine what amount of assistance is necessary, and its mode of dispensation.

MEMBERSHIP.

ART. IX – SUBSCRIPTION.

Sec. I – Any person of the Hebrew Religion, over the age of thirteen years, and unmarried, shall be eligible for Membership.

Sec. II – Any member of the Society, marrying whilst a member, shall still retain his connection in the capacity of original membership.

Sec. III – No member who is in arrears shall have a right to vote at the Annual Meetings for the election of officers.

Sec. IV – The Annual Subscription of each Member shall be Five Dollars, payable on demand.

ART. X – HONORARY MEMBERS.

Sec. I – Any person may be elected an honorary member of this Society, as a mark of respect, by a unanimous vote.



ART. XI – SUBSCRIBERS.

Sec. I – Ladies and gentlemen of the Jewish Religion shall be invited to subscribe voluntarily to the funds for the support of this Society.

ART. XII – ANNUAL REPORT.

Sec. I – The Annual Report of the affairs of the Society shall be open for inspection at all annual meetings, by members of, and subscribers to the Society.

ART. XIII – MEETINGS.

Sec. I – The Annual Meetings of the Society for the election of officers, shall be held on the first Sunday in September.

Sec. II – Quarterly Meetings of the Governing Body of the Society shall be held on the first Sunday in each of the months of January, April and August of each year, to investigate the affairs of the Society, and receive all reports.

Sec. III – It shall be lawful for the President, on the requisition of any three members, to convene a Special General Meeting of the members.

ART. XIV – ELECTION.

Sec. I – All Elections for Officers or Members shall be by ballot.

Sec. II – No member shall be eligible for the office of President or Vice-President, unless he have previously served in some elective office.

Sec. III – All ballots shall be decided by a majority of votes.

ART. XV – ALTERATIONS.

Sec. I – These Bye-Laws shall not be altered or amended except by notice of motion of such and each alteration; giving one month's notice thereof.

ART. XVI – RULES OF ORDER.

Sec. I – The following shall be the Rules of Order at all meetings of this Society, viz:-

1. Reading of Minutes of preceding Meeting.
2. Reports of Standing Committees.
3. Reports of Special Committees.
4. Reports of Officers.
  1. The President's.
  2. The Treasurer's.
  3. The Secretary's.
5. Notice of Motions.
6. Unfinished Business.
7. General Business.

JACOB G. ASCHER, President.

LEWIS A. HART, Secretary.

### **Jewish Family Service (Calgary, 1960)**

... We the undersigned, hereby declare that we desire to form a Society under the Societies Act, and that:

1. The name of the Society is 'The Calgary Jewish Family Service Bureau.'
2. The objects of the Society are to provide welfare services to Jewish residents in the City of Calgary and district, in the Province of Alberta, and without limiting the generality of the foregoing, the objects shall include:
  - (a) To encourage, promote and assist the welfare of Jewish residents in the City of Calgary and district by offering assistance and case-work services to families and to individuals;
  - (b) To provide a family and individual counselling service;
  - (c) To provide counsel and support with respect to problems of unemployment, illness, death, domestic discord, truancy, mental disorientation, personality disturbances, extra-marital pregnancy and other circumstances which may create difficulties of adjustments of Jewish families and Jewish individuals in the community;
  - (d) To provide a Jewish Child Welfare Committee for the City of Calgary and district and upon appointment as such to perform such duties, under the provisions of The Child

- Welfare Act, as the Child Welfare Committee may designate;
- (e) To encourage, promote and assist in the proper care, protection and welfare of Jewish children and of Jewish children of unmarried parents and generally to interest itself in all problems of Jewish child welfare;
  - (f) To encourage, promote and assist in the placement of Jewish children for adoption or placement in Jewish foster homes and adoptive homes;
  - (g) To encourage, promote and assist in the proper care and welfare of the Jewish aged;
  - (h) To provide assistance to Jewish newcomers in need and who intend to settle in Calgary or district;
  - (i) To provide assistance to Jewish transients in need of assistance;
  - (j) To provide assistance and consultation to any organization in cases involving Jews;
  - (k) To provide professional and other services to any Jewish organization with objects similar to those of the Society;
  - (l) To refer problems coming to the attention of the Society to the agency deemed most qualified to handle such problems;
  - (m) To receive from and take advantage of the experience and abilities of any other Welfare Organization;
  - (n) To provide such other welfare services as may be approved from time to time by the Board of Directors.
3. The operations of the Society are to be chiefly carried on in the City of Calgary and district, in the Province of Alberta.

DATED this 16th day of November, A.D.<sup>3</sup> 1960.

<sup>3</sup> Note the Christian designation of the date as A.D. (i.e. year of our Lord). This dating was presumably standard legal practice.

# Cultural and Educational Organizations

## Jewish People's Library<sup>1</sup>

LETTERS PATENT (Montreal, July 5, 1929)

... purposes and objects ...

1. To establish a public library, museum and gallery to be opened to all honest and respectable persons whomsoever of every rank in life for the purpose intended, namely for the diffusion of useful knowledge by affording access to all desiring it, to books, to scientific objects and works of art, making always the acquisition and maintenance of a library the leading object to be kept in view;
2. To provide for the study of Jewish,<sup>2</sup> French, English and other languages and to educate its members in Jewish history, literature and general culture ... .

REVISED STATUTES (Montreal, 1930) [original in Yiddish]<sup>3</sup>

Paragraph 1. The People's Library is a people's institution, founded by the people for the people.

Paragraph 2. The goal of this Library is to collect all the literature of the Jewish people, in all its branches, from all eras and in all languages,

1 A Montreal organization founded in 1914. It is now known as the Jewish Public Library.

2 i.e. Yiddish.

3 Translated by Ira Robinson.

especially in Yiddish and Hebrew. The Library also collects the literatures of other peoples in their languages, and collects everything that non-Jews have written about Jews or on Jewish themes.

Paragraph 3. The Jewish People's Library does not identify itself with any party and covers without distinction each current in *belles lettres* and science. It collects with the same interest and the same love books of all parties, social and intellectual currents.

Paragraph 4. All sorts of trashy and cheap literature will be collected for their cultural and historical value. They will be given only to the researchers of literature, or to students of the history of literature, but not to the general public.

### Library Rules

Paragraph 5. The Jewish People's Library is open daily, other than Yom Kippur and the Seder Nights. The hours will be regulated by the administration.

Paragraph 6. Books can be taken out daily, except Sabbaths and holidays ... .

Paragraph 7. The Library is open and free for all. Everything the Library owns will be given to the reader ... .

## Downtown Jewish Community School (Toronto, 1981)<sup>4</sup>

### 1. NAME

The name of this Association is the Downtown Jewish Community School. The Downtown Jewish Community School is referred to in this constitution as 'the Association' or 'D.J.C.S.'

### 2. AIMS AND OBJECTIVES

- a) To create and maintain a community organization in order to develop a pleasurable and satisfying orientation to Jewish group life – a sense of community.
- b) This objective is to be achieved by operating a school for the children of the members of the D.J.C.S. and providing other activities open to the members which have the following goals:

<sup>4</sup> An example of an afternoon, supplementary school.

- i) To promote participation in D.J.C.S. sponsored holiday celebrations.
- ii) To develop understanding of the Bible, biblical history and modern history – the Holocaust, current events.
- iii) To develop knowledge of Jewish traditions, rituals, and the arts – and their historical and contemporary significance.
- iv) To promote positive values through Jewish ethical teaching.
- v) To provide a basis for self-awareness as a Jew in a pluralistic community.
- vi) To present traditional religious concepts with explanations of alternatives – indicating that there are many ways to be a Jew.
- vii) To develop a Hebrew vocabulary of key words and phrases within the context of studying Jewish heritage, culture and values.
- viii) To introduce modern Hebrew through simple conversation, reading and understanding simple texts, and writing.

### 3. MEMBERSHIP

- a) Criteria, conditions and privileges for membership may be set by the membership by by-law.
- b) Members shall be those whose applications for membership are approved by the Board of Directors and who have paid the fees from time to time set by the Board.
- c) Only members are eligible to apply to enroll their children in the school operated by the Association ... .

## **Jewish People's and Peretz Schools (Montreal)<sup>5</sup>**

### CONSTITUTION OF JEWISH PEOPLE'S SCHOOLS & PERETZ SCHOOLS INC. (1984)

#### 1. PHILOSOPHY AND GOALS

- 1.01 The Jewish People's Schools and Peretz Schools Inc. (the "ASSOCIATION") shall operate the School System for instruction to

5 An example of a community day school.

Jewish children in a combined course of the general studies curriculum as prescribed and approved by the Ministry of Education of the Province of Quebec, from pre-school 4-year olds and from kindergarden [*sic*] through 5th year of secondary school, inclusive, and a specific Jewish studies curriculum which shall seek to educate the young generation towards an extensive knowledge of Jewish culture, tradition and the Jewish way of life, from earliest times to the modern era, and shall prepare the young person for his life as a Jew and as a productive member of the larger society of which he is a part.

- 1.02 Primary importance shall be given to the teaching of the Hebrew and Yiddish languages and literature. English and French shall be used extensively in order to better conceptualize ideas and strengthen the sense of belonging to the Jewish people, its values and its culture.
- 1.03 The schools shall seek to effect a positive attitude towards, a reverence for and a degree of intimacy with Jewish values encompassing religion, ethics, traditions, holidays, ceremonies and customs. The ideal of Eretz Israel,<sup>6</sup> the centrality of the State of Israel and the unity of Jewish people throughout the world shall be at the very essence of the Schools' philosophy.
- 1.04 Furthermore, the Schools shall seek to imbue its [*sic*] pupils with a conscious search for social justice, a sense of individual and communal responsibility, the readiness and desire for active participation in Jewish communal life, a striving for a world of peace and brotherhood and a knowledge of and sensitivity to the problems and practices of progressive democracy in a pluralistic society.
- 1.05 The schools shall foster a knowledge of and a sense of loyalty to Canada, its people, its history and culture, as well as a particular awareness and appreciation for the special character of the Province of Quebec and an affinity to its language, history and culture ...

6 The land of Israel.

# Federations

## **Burquest Jewish Community Association (British Columbia)<sup>1</sup>**

CONSTITUTION and BYLAWS (1976)

Pursuant to the Societies Act of British Columbia

The name of the society is BURQUEST JEWISH COMMUNITY ASSOCIATION.

The objects of the society are:

- (a) To assist, develop and foster community spirit;
- (b) To promote educational, cultural, athletic and community endeavours such as organized athletic games, hobbies, kindergartens, recreation, adult education and community social service and to raise money in order to support these aims by whatever means the Directors see fit but not so as to restrict the generality of the foregoing, and in all ways conforming to the provisions of the Societies Act of British Columbia, including:
  - (i) charging of membership entrance fees;
  - (ii) annual membership dues;
  - (iii) subscriptions;
  - (iv) soliciting donations;
  - (v) borrowing money;

<sup>1</sup> An example of a coalition of small communities which looks after religious activities as well the more normal functions of Jewish community organizations.



- (vi) the issuing of bonds and debentures.
- (c) To utilize all available community facilities and the encouragement of the above aims and objects;
- (d) To establish, maintain and conduct a school and employ and pay instructors therefor;
- (e) To establish, maintain and conduct classes for religious education and to employ and pay instructors therefor;
- (f) To serve the religious needs of the Jewish Community of Burnaby, Port Coquitlam, Coquitlam, Port Moody, New Westminster and Surrey, which hereinafter shall be referred to as BURQUEST;
- (g) To receive, acquire and hold gifts, donations, devises and bequests and to honour any special directions given by donors;
- (h) To acquire, construct, hold, lease, manage, rent, or sell real property for the purpose of establishing and maintaining facilities for the purposes of the community as set forth in these objects ... .

## **Jewish Community Council of Kingston (Ontario)**

### **CONSTITUTION**

#### **I. Name and Objectives**

1. The name of the organization shall be the Jewish Community Council of Kingston, hereafter called 'the JCC.'
2. The objectives of the JCC shall be:
  - a. to be the umbrella organization for Jewish associations and for interested non-affiliated Jews in the Kingston region;
  - b. to further the welfare and security of the Jewish community and to facilitate the philanthropic, social, cultural and educational advancement of the Jewish community;
  - c. to foster co-operation among organizations directed towards that end;
  - d. to act, in consultation with its constituent bodies, as spokesperson for the Kingston Jewish community in matters having a general secular character;
  - e. to be the local affiliated body of the Canadian Jewish Congress;<sup>2</sup>
  - f. to co-operate with other civic bodies in enhancing the welfare of

<sup>2</sup> The national representative organization of Canadian Jewry.

the entire community and in furthering Canadian ideals and the democratic way of life;

- g. to foster all those factors which develop more harmony and goodwill in the Jewish community and between the Jewish and non-Jewish communities.

## II. Membership

1. Any member of Congregations Beth Israel<sup>3</sup> and Iyr Ha-Melech<sup>4</sup> and any non-affiliated Kingston Jewish resident, aged 18 years and older, who requests to become a member, shall be considered to be a member.
2. A member shall be entitled to all the rights and privileges and subject to all obligations which membership confers or implies. Without limiting such rights and obligations, except as specified in XI.4, such rights shall include eligibility to seek office and to vote on all matters requiring a vote of the membership.
3. Congregations Beth Israel and Iyr Ha-Melech shall be considered to be principal member organizations ... .

## Ottawa Vaad Ha'ir (Jewish Community Council of Ottawa)

### PROPOSED REVISED CONSTITUTION (1943)

Submitted for Approval, Dec. 21st, 1943.

1. NAME – The organization shall be called 'OTTAWA VAAD HA'IR (Jewish Community Council of Ottawa).'<sup>5</sup>
2. (a) PURPOSES – To supervise and direct the religious, cultural, philanthropic and national life of the Jewish Community of Ottawa.  
(b) To unite this Community with other Jewish communities of Canada.
3. (a) MEMBERSHIP – Shall be composed of representatives of the Synagogues, in the following proportions:

<sup>3</sup> The Orthodox synagogue.

<sup>4</sup> The Reform synagogue.

<sup>5</sup> It is worth noting that the Hebrew name takes precedence over the English name of the organization.

Adath Jeshurun – 12  
Agudath Achim – 11  
Machzikei Hadath – 8  
Bnai Jacob – 7  
Agudath Israel – 6

3. (b) Other organizations, with a membership of at least 50 (ages 21 years and over), which have been in existence in Ottawa for at least one year, and are recognized by the Vaad Ha'ir as being of a kind or standing worthy of representation, may be invited to membership on the Council, their representation on the Vaad Ha'ir being limited to a maximum of two members for each organization, subject to the following proviso:  
1 representative if membership is over 50,  
2 " " " " " " 100.
3. (d) Representation from the Synagogues shall always constitute not less than Seventy Percent (70%) of the total membership of the Vaad Ha'ir.
3. (e) In order that women may be represented on the Council, the various Congregations and organizations are empowered to appoint women as well as men in their quota of delegates.
4. BODIES UNDER CONTROL – The Vaad Ha'ir shall have under its control and jurisdiction the following:
  - (a) The Vaad Hakashruth,
  - (b) The Talmud Torah,
  - (c) The Hebrew Benevolent Society,
  - (d) The Hebrew Free Loan Association,
  - (e) Organized Charities,
  - (f) Public Relations Committee,
  - (g) Youth Organizations' Committee.

## Toronto Jewish Congress<sup>6</sup>

### OBJECTS AND CONSTITUTIONAL BYLAW (1989)

The objects of Toronto Jewish Congress (hereinafter called 'the TJC') shall be:

1. To further the welfare of the Jewish community of Metropolitan

<sup>6</sup> The umbrella organization of the Toronto Jewish community at that date.

Toronto, in accordance with democratic principles, to safeguard its interests and stimulate its growth, consistent with Jewish and Canadian values and traditions, and to thereby strengthen our Canadian society.

2. To be the functional arm of the Canadian Jewish Congress (hereinafter called 'the CJC') in the Metropolitan Toronto area.
3. To foster, promote and carry on charitable, religious, educational, social service, cultural and recreational work and to cooperate and assist in planning, coordinating, harmonizing and developing methods and programs for such works with appropriate organizations, agencies and persons.
4. To engage in community planning in all fields of community service.
5. To encourage the welfare of the State of Israel and of other Jewish communities throughout the world.
6. To carry on and assist in efforts for the improvement of the social, economic and cultural condition of Jewry, the mitigation of their sufferings throughout the world and the rehabilitation of Jewish immigrants and refugees.
7. To centralize and coordinate the solicitation, collection, receipt and disbursement of funds and to receive, hold and maintain property of every description for charitable, religious, educational, cultural, social and recreational purposes and to administer, apportion, expend and disburse such funds and property and the income therefrom for such purposes among appropriate recipients.
8. To solicit, collect and receive by gifts, grants, will or otherwise, money or other property of every kind and to hold and administer the same in trust or otherwise for any or all of the purposes aforesaid and/or for purposes designated by a donor or testator consistent with the purposes aforesaid.
9. To do any and all other things necessary, incidental to, or proper in carrying out the foregoing purposes.

## CONSTITUTIONAL BYLAW OF TORONTO JEWISH CONGRESS

### MEMBERSHIP

- A. The following shall be Members of the Toronto Jewish Congress:
  1. 'Individual Members,' being every Jew residing in the Metropolitan Toronto area (hereinafter called 'Metro') who supports the aims and objectives of the TJC.

2. 'Constituent Members,' being:
    - a. 'Agencies,' being organizations, incorporated or otherwise, providing services to the Metro Jewish community, which become affiliated with the TJC by resolution of the Executive Committee, the following organizations being deemed to have become so affiliated at the date hereof:
      - Hillel Foundation (University of Toronto)
      - Jewish Student Federation (York University)
      - Jewish Camp Council
      - Jewish Family and Child Service
      - Jewish Home for the Aged
      - Baycrest Centre for Geriatric Care
      - Baycrest Day Care Centre
      - Jewish Immigrant Aid Services (Central Region)
      - Jewish Public Library
      - Jewish Vocational Service
      - Toronto Hebrew Re-Establishment Services
      - New Mount Sinai Hospital
      - Each school which is affiliated with the Board of Jewish Education, while so affiliated
      - Jewish Community Centre (YM-YWHA)
      - Centre for Creative Living-Coordinated Services to the Jewish Elderly
      - Each duly constituted organization of Rabbis
    - b. 'Organizations,' being all other organizations and congregations, incorporated or otherwise (including the main Metro branch or division of national organizations), having a Jewish membership of at least 25, paying an affiliation fee to the TJC as determined annually by the Council, and having become affiliated with the TJC by resolution of the Executive Committee; provided that the aforesaid affiliation fee shall be remitted by TJC to the UJA of Metropolitan Toronto; provided further that an organization whose application for affiliation is rejected by the Executive Committee, may appeal such rejection to the Council; the organizations set out in Schedule A hereto are deemed to have become so affiliated at the date hereof.
- B. The following shall not be, or remain, members of the TJC:
1. any person or organization who or which has been declared by the

- TJC or its predecessor organizations to be opposed to the aims and objectives of the TJC or its predecessor organizations;
2. any Member who or which shall act or conduct his, her or its affairs in such a manner as is, in the opinion of the Council, inimical to the aims and objectives of the TJC and/or the CJC, or shall cease to reside or function actively within Metro; termination of membership of such Member in the TJC shall only be effected by the affirmative vote of two-thirds of the Members of the Council voting at a meeting called for such purpose, upon 60 days' notice to such Member; such Member shall be entitled to place any objection to such termination before such meeting of the Council.

### ANNUAL GENERAL MEETING

An Annual General Meeting of the TJC shall be held at a time and place determined by the Executive Committee; a quorum shall be 75 Members present; notice of such meeting shall be mailed or delivered to the office of each Constituent Member and shall be published in a publication circulating in Metro; the business of the meeting shall include the election of the Individual Representatives to the Council; at least 90 days' notice shall be given of such meeting.

# National Organizations

## Canadian Jewish Congress<sup>1</sup>

CONSTITUTION and RESOLUTIONS ADOPTED  
AT Second General Session January 27, 28 and 29, 1934  
TORONTO, ONT.

### CONSTITUTION

#### I. Name

The name of this Dominion Organization of Canadian Jews is the Canadian Jewish Congress, hereinafter referred to as the 'Congress.'

#### II. Aims

The Aims of the Congress are:

- (a) To safeguard the civil, political, economic and religious rights of the Jews and to combat anti-Semitism.
- (b) To study problems relating to the cultural, economic and social life of the Jews and to seek a solution to such problems.
- (c) To assist the Jewish Agency in its program of work for Palestine.
- (d) To co-operate with world Jewry as may be deemed advisable [sic].

<sup>1</sup> The organization was founded in 1919, but institutional continuity dates only from the early 1930s.

### III. Constitution

1. The Congress shall consist of 3 main territorial divisions: the Western, comprising that part of Canada situated west of and including Port Arthur;<sup>2</sup> the Central Division, consisting of Ontario as far west as Port Arthur; and the Eastern Division, consisting of Quebec and the Maritime Provinces.
2. Each Division shall consist of delegates elected to the biennial Congress.
3. Every Jewish man or woman 18 years old or over, shall have the right to vote in the election of delegates and shall be eligible as a candidate.
4. Every Jewish Community having a population of at least 50 Jews and not exceeding one thousand shall be entitled to elect one delegate.
5. Jewish Communities having a population of less than 50 Jews may be granted permission to elect one delegate on approval of the Central Election Committee.
6. In those Jewish Communities, the Jewish population of which exceeds one thousand, delegates shall be elected on the basis of: One delegate for every one thousand Jewish inhabitants.
7. The Congress shall meet every two years, or more frequently, if deemed advisable by the Dominion Executive. A special general session may also be called by written request signed by not less than one third of the delegates in each division.
8. The place and date of all general and special sessions shall be determined by the Dominion Executive.
9. Delegates to the Canadian Jewish Congress shall be elected by general, popular, direct and secret ballot.
10. Delegates to the Congress shall hold office until the next election to the biennial Congress, and shall act as delegates at any special General Session.
11. If a vacancy shall arise owing to the death, or resignation, or through inability to act, of any delegate, he may be replaced by the divisional committee of his district.
12. Elections shall be held not later than one month prior to the meeting of the Congress, the date being determined by the divisional committee.

2 Now incorporated into Thunder Bay, Ontario.



13. Each nomination shall be signed by 10 proposers and by the candidate signifying his or her acceptance, and shall be sent to the local elections committee two weeks previous to the election and shall be published to the electors in such manner as the local elections committee shall decide.
14. Two months notice shall be given of the date of the general session and two weeks notice of a special session.
15. The following officers shall be elected at the biennial Congress: President, 3 Vice-Presidents, one from each division, Honorary Treasurer, Honorary Secretary, and the Congress may also elect an Honorary President and Honorary Vice-Presidents.
16. The Dominion Executive Committee shall consist of 20 members from each division including the territorial Vice-President.
17. The Dominion Executive shall appoint or dismiss such officials as may be required and may pay such salaries as they shall determine.
18. The Headquarters of the Dominion Executive shall be in the city determined by the Biennial Congress. The members of the Dominion Executive residing in the city where the headquarters are situated shall deal with matters of general routine.
19. Each divisional organization may make by-laws consistent with the Constitution, and may add to its divisional executive.
20. A quorum of the Dominion Executive shall consist of 10 members.<sup>3</sup>
21. The Dominion Executive shall have power to appoint, as occasion may arise, any person or persons to hold in trust for the Congress any funds or property belonging to the Congress or in which it is interested.
22. Any resolution adopted by the Congress may be amended or cancelled at any general or special session provided that notice thereof is given in the Agenda.
23. This Constitution may be amended at any regular biennial or special session provided due notice of the proposed amendment is given.

<sup>3</sup> Note that the traditional quorum for Jewish communal prayer (*minyan*) is also ten.

## Jewish Immigrant Aid Society (Ottawa, August 30, 1922)

### Objects:

- (a) To facilitate the lawful entry of Jewish immigrants at the various ports of Canada;
- (b) To provide them with temporary shelter, food, clothing and such other aid as may be found necessary;
- (c) To guide them to their destination;
- (d) To prevent them from becoming public charges by helping them to obtain employment;
- (e) To discourage their settling in congested cities;
- (f) To maintain bureaus of information and to publish literature on the industrial, agricultural and commercial status of the country;
- (g) To encourage them to follow agricultural pursuits;
- (h) To take proper measures to prevent ineligible [*sic*] persons from emigrating to Canada;
- (i) To foster British ideals<sup>4</sup> among the newcomers and to instill in them a thorough knowledge of Canadian history and institutions and a true patriotism and love for their adopted country;
- (j) To make better known to the people of Canada the many advantages of desirable [*sic*] immigration, and to promote these objects by means of meetings, lectures and publications;
- (k) To consolidate or amalgamate with any other institution or association having objects altogether or in part similar to those of the Association, and to acquire and hold the property and undertaking of any such institution or association, and to assume the liabilities thereof, upon such terms and conditions as may be mutually agreed upon;
- (l) To raise money by appeals to the public for subscriptions and by the collection of like and annual membership fees;
- (m) To acquire, hold, sell and convey any real estate requisite for the carrying on of the objects and undertakings of the Association;
- (n) To accept, hold, sell and deal with any real and personal property bequeathed or given to it in accordance with the terms of

<sup>4</sup> This is an indication of the extent to which Canada in that era still took pride in its British origins and loyalties.

the will or deed of gift under which such property is acquired, and any property so acquired may be held and administered by trustees appointed by the Board of Directors of the association for the purpose of assuring the fulfillment of any condition stipulated by the testator or donor;

- (o) To establish an endowment fund for such purposes and for such amount as the Board of Directors by resolution determine, the moneys constituting such fund to be invested in securities in which trustees are by the law of any Province of Canada authorized to invest in and the securities representing investments ... held by the trustees appointed by resolution of the Board of Directors for such cases;
- (p) To do all such acts or things as are incidental or conducive to the attainment of the above objects or any of them ... .

# Patriotic Organizations

## Jewish War Veterans of Canada

### CONSTITUTION

#### PREAMBLE

We, citizens, residents, and landed immigrants of Canada of the Jewish faith, who served in the Wars of Canada and/or its allies, in order that we may be of greater service to our country and to one another, associate ourselves together for the following purposes:

To maintain true allegiance to Canada; to foster and perpetuate true Canadianism; to combat whatever tends to impair the efficiency and permanency of our free institutions; to uphold the fair name of the Jew and fight his battles wherever unjustly assailed; to encourage the doctrine of universal liberty, equal rights, and full justice to all men; to combat the powers of bigotry and darkness wherever originating and whatever their target; to preserve the spirit of comradeship by mutual helpfulness to comrades and their families; to cooperate with and support existing educational institutions and establish educational institutions and foster the education of ex-servicemen and ex-servicewomen, and our members in the ideals and principals [sic] of Canadianism; to instill love of country and flag and to promote sound minds and bodies in our members and our youth; to preserve the memories and records of patriotic service performed by the men and women of our faith; to honour their memory and shield from neglect the graves of our heroic dead.

ARTICLE 1. NAME

This organization shall be known as 'The Association of Jewish War Veterans of Canada' and may be known or called 'The Jewish War Veterans of Canada' ... .

# Professional Associations

## Alpha Omega Fraternity (Toronto, 1989)

### THE CREED OF ALPHA OMEGA

Alpha Omega is an International Dental Fraternity, the members of which are selected on the basis of Scholarship, Character, Leadership and Personality.

The objectives of the Fraternity are to promote the profession of Dentistry; to establish, foster and develop high standards of Scholarship, Leadership and Character; to inculcate a spirit of fellowship amongst all its members; to create and bind together a body of professional people, who, by scholarly attainments, faithful service and the maintenance of ethical ideals and principles, have achieved distinction; to honour achievement in others; to strive for breadth of vision, unity in action and accomplishment of ideals; to commend all worthy deeds, and if fraternal welfare demands, to call and counsel with its members; to accept, sponsor and develop the cultural and traditional achievements of our faith; to build within our fraternity a triangle, the base of which is Judaism, the supporting sides, Professionalism and Fraternalism.

The Alpha Omega International Dental Fraternity is dedicated to the following purposes:

1. to be 'The Voice of the Jew in Dentistry;'
2. to be 'The Voice of Dentistry in all problems concerned with the Jewish Fate;'
3. to uphold 'The Image of the Jew in Dentistry;'

4. to fight discrimination: in admissions to dental schools; in the educational process of dentistry; in the graduation of dental students from their respective schools; in procedures of licensing boards; in organized dentistry; and in the private practice of dentistry.

## PREAMBLE

WE, THE FRATERS OF THE TORONTO ALUMNI CHAPTER OF ALPHA OMEGA FRATERNITY, in order to maintain and perpetuate the aims and objectives as stated in the Creed of Alpha Omega, and in order to promote our general welfare both as a chapter and as individuals, do ordain and establish this constitution of Toronto Alumni Chapter of the Alpha Omega Fraternity. All articles and sections of this Constitution apply equally to male and female members of Toronto Alpha Omega, even though the terms 'he,' 'his,' etc. are used.

### Article I – Name

Sec. 1 The name of this organization shall be the Toronto Alumni Chapter of the Alpha Omega Fraternity.

### Article II – Objects

Sec. 1 To function as an Alumni Chapter of the Alpha Omega Fraternity.

Sec. 2 To provide for the dissemination of knowledge concerning dentistry and related fields of science.

Sec. 3 To maintain and elevate the ethics of the profession.

Sec. 4 To encourage and promote community service.

Sec. 5 To promote the general welfare of our members ...

# Secular Organizations

## **United Jewish Peoples Order Mutual Benefit League Formerly Known as the Labour League<sup>1</sup>**

Consolidation of All the By-Laws

As adopted at the 14th National Convention March 23-24-25, 1990

### ARTICLE I

#### Section 1

The U.J.P.O. (short form), was formed on the 4th of October, 1945, succeeding the LABOUR LEAGUE MUTUAL BENEFIT SOCIETY, which was established in April of 1926. The U.J.P.O. is a secular Jewish cultural and fraternal organization. Throughout its history the organization has made a significant mark on the life of the Canadian Jewish Community. It has served its membership, years ago [*sic*] with medical benefits, and in recent years it continued to provide sick benefits (for members participating in the sick benefit fund), as well as providing cemetery facilities in the various centres. The U.J.P.O. has always provided, and still provides all of its members and the community with cultural sustenance through secular schools, camps, choirs, libraries and by actively promoting a wide variety of other cultural activity in both YIDDISH and ENGLISH. As in all of its years of activity, the U.J.P.O. now continues to strive actively to preserve and further enhance the rich secular heritage of the Jewish people.

1 A fraternal organization of the far left.



The U.J.P.O. is deeply imbued with the humanitarian concepts of true democratic freedom and justice for all. Our membership is dedicated to striving for a world without exploitation of one person by another, a world without war, disease, poverty, oppression, and the destruction of the environment.

#### Section 2

The U.J.P.O. has 9 branches or lodges in Canada, located in Montreal, Toronto, Winnipeg and Vancouver; it also has 'members at large,' individuals not directly affiliated with any existing branch or lodge.

The Head Office is located in the city of North York<sup>2</sup> at 585 Cranbrooke Avenue (The Winchevsky Center). The U.J.P.O. is licensed by the Department of Insurance of the Province of Ontario.

### ARTICLE II – MEMBERSHIP

#### Section 1

Any Jew, regardless of religious or political affiliation, who is over the age of 18, may be admitted to the Society, providing HE OR SHE conforms and complies with the organization's Aims and Purposes and rules and regulations and truthfully completes any form required by the society.

#### Section 2

While the U.J.P.O. is a Jewish organization, membership in the organization shall be open to individuals who support the aims and purposes of the organization and who have demonstrated a commitment to the preservation and development of a secular, progressive Jewish culture through the Yiddish and English languages and other languages where applicable.

#### Section 3

All candidates for membership shall pay an INITIATION FEE of \$3.00 ... .

#### Section 6

In the event of sickness of any member, the Branch or Lodge should make certain that the member is visited.

<sup>2</sup> Now incorporated into Toronto.

#### Section 7

Any member who was in arrears for six months, and after a six week period from the date of the mailing of a registered letter to the member, may, by a resolution adopted by a majority of his or her branch or lodge, have the membership revoked.

#### Section 8

The National Resident Board may, by resolution, at any time grant exemption to new members from payment of any amount owed in dues or assessment.

### ARTICLE III – ADMINISTRATION OF HEAD OFFICE, ITS OFFICERS AND THEIR ELECTIONS

The National Board is the coordinating body of the organization. As such, it responds to national and international issues and sets general policy for the organization.

#### Section 1

The U.J.P.O., comprising all its lodges or branches, which it may form from time to time, shall be administered by a body known as the National Board.

#### Section 2

The Board shall be composed of 10 representatives from Toronto, two from Montreal, two from Winnipeg and two from Vancouver, a number which may be altered as necessity arises.

This Board to be elected at National Conventions and shall serve for the period between such Conventions.

#### Section 3

All members of the U.J.P.O. qualify for election to the National Board at any time after the expiration of six months from the date of their becoming a member. In cases of a new branch being formed this limitation shall not apply.

#### Section 4

The National Board may, by resolution, declare vacant the seat of any member who has died, has resigned or who fails to attend three consecutive meetings without reasons acceptable to the Board. Once a seat

is declared vacant, the city represented by the former Board member shall elect a replacement. In the case of an officer, the National Board shall elect a replacement to serve the unexpired period.

#### Section 5

The National Board shall transact and conduct all affairs of the organization which are not of a purely local character and subject to action by a local committee, branch or lodge.

#### Section 6

The President, Toronto Vice-President, Secretary and Treasurer shall constitute the Executive Committee of the National Board, and shall meet at least once a month. The National Board as a whole shall meet in plenary session at least once a year between conventions. The Toronto members of the National Board may be called together from time to time, and individual members of the Board from Toronto may take part in the deliberations of the Executive Committee as required, and may also be assigned specific tasks by that body. National Board members outside Toronto may also take on national assignments as required ... .

# Self-Help Organizations (*Landsmannshaftn*)<sup>1</sup>

## Hebrew Sick Benefit Association (Montreal, 1902)<sup>2</sup>

### Article 1

#### Name and Language

1. The organization carries the name HEBREW SICK BENEFIT ASSOCIATION OF MONTREAL.<sup>3</sup>
2. This name shall never be changed.
3. This organization cannot be terminated as long as seven members in good standing wish to carry it on.
4. All business and correspondence of the organization will be carried on in the Yiddish language, however each brother may also use the English language ... .

### Article 3

#### Acceptance of Members

1. Candidates who wish to be members in this organization must have reached their sixteenth year and not passed their forty-fifth be of the Mosaic faith, sound in body and mind with a good character ... and six months in the country.

1 Typically, these organizations were founded for purposes of self-help by recent immigrants from the same town or region in Europe. They often had social and religious functions as well.

2 Original in Yiddish. Translated by Ira Robinson.

3 The English name was transliterated into Hebrew characters.

## **New Jewish Fraternal Association (Toronto)**

### GENERAL STATEMENT OF POLICY (1960)

We ... have joined together in this organization, in bonds of friendship and mutual benefit. Our common outlook on fraternal, cultural and social problems, our willingness to help each other in time of need, our desire to enrich our lives, binds us together in one organization.

Men and women, over the age of 18, who agree with our statement of purpose and abide by our constitution are welcome to join us.

We are a family organization. We provide a program of activities and interests for every member of the family, for children, youth and adults.

We provide, for our members, various aspects of a fraternal program, which is the need of every family. We take care of the family in time of bereavement and are always ready to help in time of need. The welfare of each individual member and his family is the concern of the whole organization.

We have an appreciation for the great cultural heritage of the Jewish people. We develop a varied cultural program for the enrichment of our own members' lives and contribute to Canada's ethnic culture.

We want our children to have an understanding and appreciation for their Jewish heritage and develop a comprehensive children's educational and club program.

We are a part of the Jewish community which has a long and proud history of activity in the interests of the Jewish people.

We participate actively in Jewish communal life and share the responsibility of maintaining the many worthy community institutions which have been established.

The welfare of the Jewish communities throughout the world is our concern. We strongly condemn all forms of anti-Semitism and discrimination against Jews in any country. We champion the right of Jewish people in every country to equal citizenship and equal treatment.

We have the deepest feeling of friendship for Israel. The birth of Israel was an historic event of great significance to the Jewish people. Israel has taken in hundreds of thousands of Jews from many lands and provided a haven for them.

We recognize the need for providing material assistance to the people of Israel.

We believe the state of Israel must be treated as an equal among the family of nations.

We believe in active citizenship in our country.

We provide a forum for communal, social and political problems and participate in action on issues.

We oppose all forms of discrimination and prejudice. We champion the cause of full equality in every sphere of Canadian life for all Canadian citizens.

We are for the extension of the democratic rights and civil liberties of all people.

We support all efforts for civic betterment, such as more and better housing and improved educational and recreational facilities.

We believe in the right of every Canadian citizen to enjoy a life of abundance and economic security. We support the aspirations of the Canadian people for a higher standard of living.

We recognize the organized labor movement as a democratic force in our society and support its effort to secure a greater share of the wealth of the country for the working people.

We believe in peace and friendship among all nations and all peoples. We believe in the right of every human being to live his life in peace and to raise his family without the fear of war and destruction.

It is our constant pledge to make our contribution for the cause of peace, friendship and true brotherhood of man, in our country and everywhere.

We the members ... accept this statement of purpose to be the guiding spirit for the program of our organization.

# Social Organizations

## Concordia Club (Vancouver)

CONSTITUTION (1920s)

### NAME

1. The name of the association shall be Concordia Club.

### OBJECTS

2. (a) To provide a meeting place for [*sic*] the young Jewish men of the City of Vancouver may meet and become better acquainted with each other on the common ground of good fellowship.  
(b) To promote the highest ideals of such good fellowship among its members.  
(c) To promote ideals of service to fellow members and to the community.  
(d) Without limiting the particularity of the foregoing, to provide an organization of young Jewish men who, bound together by congeniality, good fellowship and brotherly love, will be particularly adapted to serve their fellowmen in any way in which demands may be forthcoming.

### MEMBERSHIP

3. (a) Every Jew who has attained the age of twenty-one years and

resides in Greater Vancouver, shall be eligible for membership.

- (b) The membership shall be limited to fifty members ... .

#### ELECTION OF MEMBERS

4. (a) Membership in the organization shall be by way of application in writing, recommended by one member and submitted to the Secretary ... .
- (b) The application when received by the Secretary shall be read at the first meeting subsequent to the receipt of the application and after being read at the meeting, the application shall be handed to a standing membership committee composed of four members who shall bring in a report by the next regular meeting.
- (c) In the event of the application receiving the majority approval of the membership committee, the ballot shall be taken on such applicant and it shall require two rejection votes to disallow election.

### **Jewish Community Centre (Toronto, 1989)**

#### ARTICLE II – OBJECTIVES

The objectives of the Centre shall be the following:

- A. To develop and conduct a comprehensive programme of guided leisure time activities utilizing the skills and methods of group work, informal education, fitness, recreation and cultural programmes and aimed at helping individuals achieve an affirmative identification with Jewish life and a deep appreciation of their responsibilities as citizens of Canada.
- B. To serve as a common meeting place for the entire Jewish community and co-operate with all groups concerned with enriching Jewish community life.



# Students' and Women's Organizations

## Jewish Students' Union (Toronto)

### CONSTITUTION

#### ARTICLE 1.01 – Name

The name of the organization is the Jewish Students' Union/B'Nai Brith Hillel Foundation at the University of Toronto. The abbreviated name of the organization is JSU/Hillel.

#### ARTICLE 2.01 – Objectives

The organization exists to help Jewish students, engaged in the pursuit of higher learning, to establish for themselves a Jewish identity. The JSU/Hillel will fulfill this by serving as a centre for Jewish activities of a religious, political, educational, cultural, communal and social nature. The JSU/Hillel will thus serve to promote leadership, citizenship and social responsibility among its members. The organization will, in accordance with this purpose, cooperate with other groups, and with groups involving the community at large, in order to develop and further mutual understanding.

#### ARTICLE 3.01 – Membership and Fees

- a) Any Jewish student registered with the University of Toronto in a program leading to a degree, diploma or certificate of the University shall be eligible for membership.

- b) Any other student of the University as defined by the *University of Toronto Act 1971*, as amended or reenacted from time to time, may become a member of the JSU/Hillel on payment to the organization of the annual membership fee ... .

### ARTICLE 3.03

The interest of a member in the JSU/Hillel is not transferable and lapses and ceases to exist when he ceases to be a member of the organization. A member ceases to be a member upon withdrawal, suspension or expulsion from the university ... .

## Na'amat<sup>1</sup>

### CONSTITUTION (1993)

Adopted at the meeting of the 10<sup>th</sup> Triennial National Convention held in Montreal, Quebec, Delta Hotel, October 31<sup>st</sup> to November 2<sup>nd</sup>, 1993.

### PREAMBLE

NA'AMAT CANADA INCORPORATED, is the autonomous women's organization in Canada of the World Labour Zionist Movement.

### Article 1

Na'amat Canada is dedicated to the following objectives:

1. To develop awareness among its members of their responsibilities as Canadian citizens and to co-operate with other organizations in the promotion of democratic ideals in Canada.
2. To imbue all members with pride in the history of Na'amat and the role it has played in the birth and development of Israel.
3. To solicit and collect funds, subscriptions, gifts and donations in Canada, to assist indigent people in, and new immigrants to

1 Formerly known as Pioneer Women.

Israel in their education and the education of their children, and in connection with the foregoing to publish such literature as is deemed necessary to fulfill these purposes.

4. To promote Jewish education in Canada and to participate actively in the support of Jewish educational institutions.
5. To develop among its members a strong awareness of their Jewish heritage and to strengthen the bond between Jewish and non-Jewish people throughout the world.
6. To co-operate with other women's organizations in their programs for women's social and economic equality.
7. To participate in Zionist activities and to be involved with other organizations who further the development of the Canadian community and the State of Israel.

# Zionist and Israel-Related Organizations

## Canadian Friends of Haifa University (Toronto, 1973)

Paul David, James Cozzi, Michael Winton and Martin Richard Wasserman, all of The Municipality of Metropolitan Toronto, in the Province of Ontario, Solicitors; constituting them and any others who become members of the Corporation hereby created a corporation without share capital under the name of CANADIAN FRIENDS OF HAIFA UNIVERSITY for the following objects, that is to say:

Subject to *The Mortmain and Charitable Uses Act* and *The Charitable Gifts Act*:

- (a) TO identify and maintain the interest of Canadian Jewish communities in Jewish and Hebrew studies, traditions and culture and research relating thereto;
- (b) TO create and serve as an intellectual centre for Canadians of the Jewish faith, to assist and encourage Canadian students interested in the fields of the humanities and science to study in Israel and particularly at the University of Haifa in Haifa by providing them with research fellowships, scholarships, bursaries and by participating in the maintenance and operation of dormitories, hostels and restaurants incidental thereto; to participate in the promotion of faculty exchanges between professors of the University of Haifa and professors of Canadian universities with a view to encouraging, soliciting and training Israelis to teach in Canada by providing travel grants and fellowships for the purposes thereof;

- (c) TO promote the training of teachers to serve Canadian Jewry;
- (d) For the objects of the Corporation, to publish or to facilitate the publication and distribution for the benefit of Canadian Jewish communities of books, pamphlets, articles, monographs and other literature dealing with and relating to Hebrew and Jewish culture, the tenets of Jewish religion and the cultivation of Hebrew literature; and
- (e) TO do all things as are incidental or conducive to the attainment of the above objects and in particular;
  - 1. For the attainment of the above objects, to acquire, accept, solicit or receive, by purchase, lease, contract, donation, legacy, gift, grant, bequest or otherwise, any kind of real or personal property, and to enter into and carry out agreements, contracts and undertakings incidental thereto;
  - 2. For the further attainment of the above objects, to hold, manage, sell or convert any of the real or personal property from time to time owned by the Corporation and to invest and re-invest any principal in investments authorized by law for the investment of trust funds, and to retain any real or personal property in the form in which it may be when received by the Corporation for such length of time as may be deemed best;
  - 3. For the further attainment of the above objects, to exercise all voting rights and to authorize and direct the execution and delivery of proxies in connection with any shares ... .

## **Zionist Men's Association of Canada**

CONSTITUTION (as amended by the 31st National Convention May 29th-31st, 1959)

### **Name and Affiliation**

- 1. This organization shall be known as the "ZIONIST MEN'S ASSOCIATION OF CANADA," and shall be affiliated with the Zionist Organization of Canada.

## Objects

2. The objects of this Association shall be to foster among its members:
  - a) the principles of general Zionism, having for its purpose assistance in the development of the State of Israel;
  - b) Jewish consciousness through the study, appreciation and dissemination of Hebrew language, culture, history of the Jewish people and public celebration of national festivals and historic occurrences;
  - c) sentiments of fraternity and solidarity.

## Headquarters

3. The Headquarters of the Association shall be in Montreal.

## Organization

4. This Association shall consist of lodges organized in the Dominion of Canada under the authority of the Dominion Council of the Association.
5. Every male Jew of the age of 18 years and over is eligible to apply for membership.
6. The membership fee as fixed by each lodge shall accompany every application for membership in a lodge. Applications for membership shall be in the form approved by the Dominion Council.
7. A report from the Membership Committee shall accompany each application when being submitted to the lodge executive for approval.
8. A group of at least 10 applicants is qualified to apply for a charter from the Dominion Council, constituting it as a lodge of the Association. Such application shall be in writing and shall be addressed to the Dominion Council, accompanied by a fee of \$10.00. The application and the name shall be subject to approval by the Dominion Council. An entire group shall be initiated by the Dominion Council or its authorized representatives by one of the forms of ritual approved by the Dominion Council. Nevertheless, a lodge may, at its option, dispense with

the use of any ritual. The election of officers shall be held at the first meeting following the granting of a charter.

9. Deeming it expedient that efforts should be made wherever possible, to integrate all men's Zionist societies into a united and coordinated national organization, the Dominion Council may, notwithstanding any provision herein set forth, incorporate into the Association or otherwise affiliate with it any active Zionist society or club on such terms or association as they may deem expedient, and provided that always the paramount object of the Association to enlarge and enrich the content of Zionist activities be thereby served.

# Synagogues

## Spanish and Portuguese Synagogue, Shearith Israel of Montreal<sup>1</sup>

BY-LAWS (August 3, 1846)

### ARTICLE I

#### Clause 1:

Whereas by the Act of 2<sup>nd</sup> Session in II Parliament Vict. Chap. 96 it is enacted that persons of the Jewish Faith calling themselves Portuguese Jews being enscribed and registered in the manner provided by the Act 9 and 10 Geo. IV Chap. 75 and being members of the Synagogue shall elect from among their number a President, Treasurer, Secretary and three Trustees to remain in office for one year and be known under the title of 'The Corporation of Portuguese Jews of Montreal.'

#### Clause 3:

There shall always be chosen by the Congregation a Hazan, Shochet and Shamas<sup>2</sup> to perform the services required by them in their several departments.

1 Canada's first congregation, Shearith Israel is extensively discussed in the essays by Jay Eidelman and Michael Brown elsewhere in this volume.

2 Cantor/rabbi, ritual slaughterer of kosher meat, sexton.



## ARTICLE II

### Clause 3: After the Election of Officers

The Congregation shall elect in a similar manner a member to act as Parnass who shall have the management of the whole of the internal affairs of the Synagogue and preside at all the meetings of the Congregation called to discuss any matters relating to the internal affairs.

## ARTICLE III

### Clause 1:

The fixed prayers shall forever be read in the Hebrew language according to the customs of the Great Portuguese Synagogue in London.

### Clause 2:

But the Parnass may on a public thanksgiving or any other occasions direct the Hazan or any other suitable person to deliver a sermon or address in English.

### Clause 3:

The hours for commencing morning service to be the same as in the Portuguese Synagogue in New York.

## ARTICLE IV

### Clause 1: Of the Parnass

The Parnass shall have a superintending power over the Hazan, Shochet and Shamas and see that they faithfully perform the duties of their respective offices and should either of them appear deficient in the discharge of their duties he shall report the same to the Congregation who shall immediately take cognizance of the same.

### Clause 2:

The Parnass shall have the power at his discretion to cause to be given to any person professing Judaism whom he may deem an object of charity any sum not exceeding Four Dollars.

### Clause 4:

The Parnass shall in all cases designate the ground for the Beth Haim<sup>3</sup>

<sup>3</sup> Cemetery.

for the interring of any deceased member of this Congregation or of any stranger professing Judaism.

## ARTICLE VI

### Clause 1:

Every member of this Congregation shall previous to the singing in psalm or prayers remain silent until the Hazan signify the tone in which the same is to be sung when those who are so inclined may then join therein in an equal voice but neither higher nor louder than the Hazan.

### Clause 2:

No children of either sex under the age of five years shall be admitted into the Synagogue under any pretense whatsoever.

### Clause 3:

All umbrellas and canes except those carried by lame persons shall be left at the door.

### Clause 4:

All garments taken off shall be deposited in the room outside for that purpose unless the owners thereof put them in their own seats.

### Clause 5:

Any person or persons leaving the Synagogue shall repair in a quiet and orderly manner and avoid going out together or in bodies, more particularly during the reading of the Torah<sup>4</sup> and Haphtorah.<sup>5</sup>

### Clause 6:

Any person infringing any of the above laws shall be admonished accordingly.

## ARTICLE VII

### Clause 1: Of Members

Any person shall [not] be eligible to become a member of this Congre-

4 Pentateuch.

5 Reading from the Prophets.

gation until after he has been a seat holder for 12 months and then only by applying to the Secretary in writing and being balloted for at any meeting of the Congregation and receiving a majority of votes.

Clause 2:

Any person marrying contrary to our religious laws or renouncing Judaism shall not be eligible to become a member of this Congregation.

Clause 3:

Every seat holder shall sign the By Laws and thereby agree to support the same.

## ARTICLE IX

Clause 1: Of fines

Any member elected to fill the office of President and refusing to accept the same shall pay a fine of Fifteen Dollars.

Clause 2:

Any member elected and refusing to serve as Treasurer shall pay a fine of Ten Dollars.

Clause 3:

Any member elected and refusing to act as Secretary shall pay a fine of Eight Dollars.

Clause 4:

Any member elected and refusing to act as Parnass shall pay a fine of Ten Dollars.

Clause 5:

Any member refusing when elected to act as Trustee shall pay a fine of Six Dollars.

Clause 6:

Should any member who has filled any of the above offices for one year be re-elected and decline to serve he shall not be subject to be fined for three years.

Clause 7:

Any member paying a fine shall also be exempt for three years.

Clause 8:

Any of the above officers neglecting their duties shall be subject to a fine not to exceed a sum equal to half of the fine for refusing the office.

ARTICLE X

Clause 1:

Members and seatholders shall be entitled to the services of the Hazan and Shamas on the occasion of any death in their families free of expense.

Clause 2:

Persons not belonging to this Congregation applying for the services of its Reader to perform either marriage or burial services or for the services of its Mohel<sup>6</sup> shall pay to the funds a sum not less than Five Dollars to be fixed by the Corporation who however may forego the amount if they see fit.

BY-LAWS (Revised and Passed the 1<sup>st</sup> Day of Nov. 1857)

ARTICLE 1.

Clause 1. The Officers of the Corporation shall be voted for from among those members only, who shall have in all respects complied with these By-Laws. The said officers shall be voted for separately, viz.: The President, the Treasurer, the Secretary, and the three Trustees, in the above order, and such candidate having a majority of votes.

4. The Officers and Trustees so elected shall provide the said Congregation with a Hazan, Shochet, Shamas and Mohel to perform the services required of them in their several departments hereinafter described.
5. After the election of the Officers above stated, the said members only as aforesaid shall elect, in a similar manner, a member to act as Parnas (who may be a Trustee or other Officer) who shall have the management of the whole internal affairs of the Synagogue, and attend all meetings of the Corporation called to discuss any matters relating to the said synagogue, but have no vote at the board.

6 Ritual circumciser.

6. The Parnas shall have a superintending power over the Hazan, Shochet, Shamas and Mohel, and see that they faithfully perform the duties of their respective offices.
9. Should both the Parnas and Treasurer be absent, then in that case, the Senior Trustee shall officiate for the occasion.
10. The said Members only, as aforesaid, shall also elect from among their members a Superintendent or Gabai Beth-Haim.<sup>7</sup>

## ARTICLE 2. OF THE PRESIDENT

2. He shall issue all orders to the Hazan, in writing, permitting him to perform the ceremony of Marriage to all persons belonging to this Congregation; and also to any person or persons not being members thereof.
3. He shall also issue all orders to the Mohel permitting him to operate for all persons belonging to this Congregation, and also for any person or persons not being members thereof.
4. All and every application for the services of the Hazan, Shamas, or Mohel, of this said Congregation, shall be made to the President, who shall grant such permissions, after having first obtained the consent of the Trustees of this Corporation, and ascertained that the party so applying for such services shall not be in arrears.
5. He shall certify all claims against the Corporation save and except the salaries of the Officials and keep in his possession, during his term of office, the seal of this Corporate Body, which he shall affix to all documents when necessary.

## ARTICLE 5. OF THE CORPORATION

6. The General Meeting for the election of Officers shall take place on the Sunday week previous to Roshashanah,<sup>8</sup> at which time the newly elected Corporation shall assume their duties.

<sup>7</sup> Cemetery steward.

<sup>8</sup> Rosh HaShanah, the Jewish New Year, which occurs early in the fall.

8. Any member elected to fill the office of President, and refusing to accept the same, shall pay a fine of ten dollars.
9. Any member elected to fill the office of Treasurer, refusing to accept the same, shall pay a fine of five dollars.
10. Any member elected to fill the office of Secretary, refusing to accept the same, shall pay a fine of five dollars.
11. Any member elected to fill the office of Parnas refusing to accept the same, shall pay a fine of ten dollars.
12. Any member refusing, when elected, to act as Trustee shall pay a fine of four dollars.
13. Should any member who has filled any of the above offices for one year be elected to any of the offices or Trusteeship, and decline to serve, he shall not be subject to be fined for one year; and any member paying any of the above mentioned fines shall also be exempt for one year.

#### CLL 6. OF MEMBERS

- e 1. That before any person shall be eligible to become a privileged member of this congregation, he shall have been a seatholder for three years at not less than ten dollars per annum.
3. That any person having been a seatholder of this congregation for three years as aforesaid, and being desirous of becoming a member, shall make application in writing to the President, stating such his desire, which application shall be laid by the President before the Corporation without delay for their action thereon.
4. That upon being admitted a member and (registered as aforesaid) he shall be entitled to vote on all questions brought before the general body of the congregation at all general meetings.
8. All members not in arrears shall be eligible to be elected an Officer of the Corporation, to be also eligible to be elected Hatan Torah and Hatan Bereshith,<sup>9</sup> the two latter appointments to be in the gift of the Parnas.

<sup>9</sup> Special honours given out on the festival of Simhat Torah, the Rejoicing of the Law.

10. Members shall have the right to officiate as Segan on the occasion of the marriage or confirmation of any of his children, (by first obtaining the permission of the Parnas and not being in arrears). He shall also be called to the law in rotation, and at the discretion of the Parnas. He shall have the right to the attendance of the Hazan, Shochet or Mohel, on all occasions when their services may be required (permission of the Parnas being first obtained).
13. No member shall bring or send any child to Synagogue under the age of five years.
14. Any person marrying contrary to the laws of Judaism shall neither be eligible to receive any honors of the Synagogue nor hold the offices.
15. It being indispensable that order and decorum should reign in the house of prayer, every member must, during service, remain at his place and conduct himself with propriety; and all persons leaving the Synagogue shall retire in a quiet and orderly manner; every act in defiance of this rule will render the offender liable to be admonished by the Parnas.
16. Any expelled Member, being desirous of readmission, shall first pay to the Treasurer all arrears that he may stand charged with, and then make application to the President, in writing who shall without delay summon a meeting of the Corporation to take the same into consideration, and who shall act upon the same as it deem fit.

#### ARTICLE 7. SEAT-HOLDERS

- Clause 1. Any person wishing to obtain a seat in the Synagogue must apply to the Treasurer, and shall be charged such sum as may be deemed equitable, which sum must be paid strictly three months in advance.
2. That should any person being a seat-holder, or any other person, whether residing in the City of Montreal or elsewhere, require the services of the Hazan, Shamas or Mohel, he shall make application to the President, in writing, stating such his desire; and he charged such sum the Corporation may deem just, before granting the services of the officials.

ARTICLE 8. OF THE MICVAH<sup>10</sup>

- Clause 1. This Congregation having a Micvah in the Synagogue building for the use of members, seat-holders, and their families, it is hereby enacted that the fuel required for same be provided by the Shamas, who shall have the superintendence of same.
2. That persons requiring the use of the said Micvah shall pay to the said Shamas a fee, for each and every time they use the same, of not less an amount than two shillings and sixpence currency, save and except from the poor.
  3. The fees accruing from the said Micvah shall belong and be for the sole use of the said Shamas, towards the expense of providing the necessary fuel.

## ARTICLE 9. THE DUTIES OF THE HAZAN

- Clause 1. The Hazan shall attend (illness excepted) in the Synagogue upon all and every occasion the same is opened for prayers, or the performance of any religious ceremony, in his official dress; also at all funerals, when notified so to do by the Gabai-Beth-Haim.
2. He shall, when requested so to do, attend at the dwelling of any member or seat-holder, when afflicted with illness; and also at the house of mourning.
  3. The Hazan shall officiate on all and every occasion, in Synagogue or elsewhere, (unless prevented by illness or being absent from the town); in which case the prayers shall be read by the Shamas.
  4. Provided always, that should a hazan or lecturer of any other congregation visit Montreal, and being desirous, or at the request of the Corporation consent to deliver a lecture, or read prayers, the same shall be allowed; permission of the Parnas being first obtained.
  5. He shall, according to law of this Province, keep a proper register of Births, Marriages and Funerals performed by

<sup>10</sup> Ritual bath used for conversions and by women after their monthly cycle. It is usually spelled 'mikveh.'



him, and report the same in required time to the appointed legal officer of the Government.

## DRAFT BY-LAW (July, 1976)

### I. GENERAL PRINCIPLES AND OBJECTIVES OF THE CONGREGATION

- 1.1 **TRADITION** Services shall be conducted in the Spanish Hebrew Tradition (Sephardic Hebrew Minhag) of the Congregation.
- 1.2 **WORSHIP** The mode of worship shall be in accordance with the Orthodox Jewish Tradition.
- 1.3 **OBJECTS** The objects of the Congregation shall be to maintain a synagogue and to foster religious, cultural, and educational endeavors and activate to help further the cause and objectives of the Congregation and of Judaism.

### II. MEMBERSHIP

- 2.2 **QUALIFICATIONS** Any person of majority age of the Jewish Faith and good moral character, who undertakes to comply with the By-Laws and regulations of the Congregation, shall be eligible for membership upon application.
- 2.3 **CATEGORIES** There shall be three membership categories, two regular and one honorary:
  - a) **FAMILY MEMBERSHIP** Such membership shall be extended to married couples and shall entitle husbands and wives to all membership privileges and confer upon them the right to a single vote to be exercised by either of them at meetings of the Congregation;
  - b) **INDIVIDUAL MEMBERSHIP** Such membership shall be extended to single, divorced, or widowed men and women and shall confer upon them the right to one vote at meetings of the Congregation; and
  - c) **HONORARY MEMBERSHIP** Such membership shall be conferred, by resolution of the Board and without application, upon Min-

isters of the Congregation or upon other deserving persons of the community, and upon their consorts. Honorary members shall be entitled to attend and participate but not to vote at meetings of the Congregation.

Honorary members, who at the same time are or become regular members, shall be entitled to all the rights and privileges of regular members.

### III. ADMINISTRATION

- 3.1 **GENERAL** The affairs and business of the Congregation shall be vested in and administered by:
- a) the General Membership;
  - b) the Board of Trustees;
  - c) the Executive Committee;
- 3.2 **BOARD OF TRUSTEES** The board shall consist of sixteen members ('trustees') who are seat holders and the incumbent Presidents of the Sisterhood and Men's Association.
- 3.3 **VICE PRESIDENTS** At least one Vice-President shall be a female member of the Congregation.
- 3.4 **PARNASS** The Parnass is the lay head of the religious service of the Congregation. He shall:
- a) preside at religious services and generally supervise the religious activities of the Congregation;
  - b) distribute on an equitable basis and record all religious honours upon consultation with the ministers of the Congregation; and submit, in consultation with the Religious Committee, a list of honours for the High Holy Days and Festivals one month in advance thereof to the Executive Committee;
  - c) be custodian of the Books of Law (Sifre Torah) and all other religious books, artifacts and paraphernalia;
  - d) act as liaison between the members, Board, Executive Committee and religious officials and ministers of the Congregation; and comply with all statutory obligations incumbent upon the keeper of such registers, the whole without charge save for those fees which may be prescribed by law;
  - e) have freedom of the Pulpit;

- f) consult with the Parnass, the Executive Committee and Board to determine the views of the Congregation and the most effective way of performing his duties;
- g) be responsible to the Board for the discharge by all Ministers of the Congregation of their duties;
- h) direct services in co-operation with the Parnass;
- i) attend major religious services of the Congregation in official dress;
- j) fix the times for commencement and termination of religious services;
- k) share ministerial functions with visiting clergymen or speakers, who may be invited by the Board only;
- l) attend and officiate at funerals of members and/or their immediate family when so requested by members, the Parnass, the President or Chairman of the Cemetery Committee;
- m) exercise his best efforts to attend the houses of mourning members;
- n) exercise his best efforts to visit members who are ill or incapacitated;
- o) serve both Jewish and civic interests of the Community at large whenever and wherever such service does not interfere unreasonably with the performance of his Congregational duties;
- p) not officiate at any other Synagogue, funeral of a non-member or at any other religious service without the authorization of the Executive Committee; and
- q) not engage in any other business or profession without the authorization of the Board.

4.5 ASSISTANT RABBI The terms under which an Assistant Rabbi (or Assistant Rabbis) may be appointed shall be determined by the Board upon recommendation of the Executive Committee. The assistant Rabbi shall perform such duties as reasonably may be expected of him by the Rabbi, in consultation with the Parnass or the Executive Committee.

4.6 CANTOR AND ASSISTANT CANTOR The terms under which the Cantor(s) and Assistant Cantor(s) shall be appointed will be determined by the Board upon recommendation of the Executive Committee. The Cantor(s) and the Assistant Cantor(s) shall:

- a) conduct religious services in the Synagogue or elsewhere as may be required of them by the Rabbi;
- b) be responsible for the liturgical program and activities of the Congregation in consultation with the Rabbi, Parnass and Religious Services Committee;
- c) perform the customary duties of their office or such other functions as may be assigned to them;
- d) attend when requested by members at marriages, burials and other customary functions; and
- e) arrange and supervise studying and training for Bar or Bat Mitzvahs or other religious rites.

4.7 THE SHAMASH<sup>11</sup> The terms under which the Shamash (sexton) may be appointed shall be determined by the Executive Committee.

The Shamash shall:

- a) open and close the Synagogue before and after services and be in attendance at services;
- b) make all necessary preparations for all religious services;
- c) in the absence of Ministers, or whenever required to do so otherwise, read prayers, attend at the house of any other member in the event of death or illness in such member's family and, if required, attend marriages and funerals in families of members;
- d) be responsible for all religious articles committed to his care;
- e) keep an account of contributions (offerings);
- f) maintain the order in the Synagogue in cooperation with the Decorum and Reception Committee;
- g) prepare the Succah<sup>12</sup> and all religious artifacts and instruments required for regular and festival services;
- h) Record and advise members of the anniversary dates of death of parents and close relatives; and
- i) Be under the supervisory control of the Parnass and of the Religious Services Committee.

4.8 MUSICAL DIRECTOR AND MEMBERS OF THE CHOIR The Musical Director and choir members may be hired by the Executive Com-

<sup>11</sup> Shamas in earlier documents.

<sup>12</sup> Outdoor booth during fall Feast of Tabernacles.

mittee upon recommendation of the Religious Services Committee at such terms and conditions as the Executive Committee shall designate. The musical Director shall be responsible for overall operation of the choir and subject to the supervision of the Cantor(s) and the Religious Services Committee.

The musical Director shall:

- a) lead the choir;
- e) preserve traditional tunes of the Congregation.

## V. COMMITTEES

- 5.1 LIST OF STANDING COMMITTEES The following shall be standing committees of the Congregation:

- Cemetery Committee (see VI)
- Kashruth (5.3)
- Religious Services Committee (5.4)
- Membership Committee (5.5)
- Seating Committee (5.6)
- Decorum and Reception (5.7)
- Education and Study (5.8)
- Community Affairs Committee (5.9)
- Publicity and Bulletin (5.10)

- 5.2 VOTING Each committee member shall have one vote. Resolution shall carry by simple majority. The chairman of any committee shall enjoy, in the event of a tied vote, a second or casting vote. A quorum shall consist of at least one-half of the members of a committee.

Ex-officio members shall not be entitled to vote at committee meetings nor shall their numbers be considered in determining the presence of a quorum.

- 5.3 KASHRUTH COMMITTEE The Parnass and the Rabbi(s) shall be ex-officio members of this Committee.

The Committee shall:

- a) establish policies governing the kashruth of the Synagogue kitchens and with respect to the preparations and consumption of food and beverages in the Synagogue;
- b) supervise all such policies;

- c) recommend which food and beverage suppliers and caterers shall be permitted to deal with and operate at the Synagogue; and
- d) appoint an inspector (mashgiach) under the supervision of the Rabbi(s) to assure the observance of all religious dietary laws by the Synagogue, its employees, members, caterers and suppliers.

**5.4 RELIGIOUS SERVICES COMMITTEE** The Parnass and the Rabbi(s) shall be ex-officio members of this Committee.

The Committee shall:

- a) be responsible for the conduct and enhancement of all religious services conducted in the Synagogue and in the cemetery of the Congregation, or under the auspices of the Congregation in private homes or at any other place where a service may be held;
- b) establish from time to time the ritual pertaining to all services, including daily, Sabbath, Festival, wedding and mourning services;
- c) receive and discuss suggestions designed to enhance services and recommend to the Parnass modifications to the service. (The Parnass in turn shall report to the Board which alone may implement modifications of a substantive nature to the services); and may
- d) establish a sub-committee consisting of the chairman, the Cantor(s), the Musical Director and not less than three or more than five members of the Congregation, which in co-operation with the Cantor(s) and Parnass shall:
  - i. supervise the choir;
  - ii. establish the musical programs that will enhance services and stimulate thereat the involvement of both adults and children; and
  - iii. supervise the Musical Director.

**5.5 MEMBERSHIP COMMITTEE** One of the Vice-Presidents shall be an ex-officio member of the Committee.

The Committee shall:

- b) receive and investigate all applications for membership and report its recommendations to the Board as soon as possible; and

- c) implement programs designed to increase and maintain membership in the Congregation.

5.6 SEATING COMMITTEE One of the Vice-Presidents shall be an ex-officio member of the Committee.

The Committee shall supervise the allotment of seats in the sanctuary, chapel and other places of worship of the Congregation as they become available from time to time in accordance with the By-Laws and Regulations of the Congregation and the terms and conditions determined by the Board.

5.7 DECORUM AND RECEPTION COMMITTEE The Parnass shall be an ex-officio member of the Committee.

The Committee shall:

- a) be responsible for ensuring appropriate decorum at the religious services of the Congregation and for welcoming and assisting all visitors thereto;
- b) establish a group of ushers for the Sabbath, festival and other religious services as well as at all major Congregational meetings and lectures, or wherever the presence of ushers is requested by the President or Executive Committee.

5.8 EDUCATION AND STUDY COMMITTEE The Rabbi(s) shall be an ex-officio member of the Committee.

The Committee shall implement programs of a cultural and educational nature intended principally for the benefit of members of the Congregation and, without limiting the generality of the foregoing, such programs may include home study groups, endowed lectures, Hebrew language instruction, Talmud, Pirke Avot<sup>13</sup> and other study groups.

5.9 COMMUNITY AFFAIRS COMMITTEE The Committee:

- a) shall establish and maintain communication between the Congregation and other organizations in the Community, ensuring that the Congregation is adequately represented;
- b) shall act as liaison between the Congregation and the Union of

13 Tractate of the *Mishna*, commonly known in English as Ethics of the Fathers, studied on Sabbath afternoons in summer.

Sephardic Congregations and other bodies having objects substantially similar to and not conflicting with those of the Congregation; and

- c) may participate in any cause furthering the interest of Judaism, the Canadian Community and the State of Israel.

5.10 **PUBLICITY AND BULLETIN COMMITTEE** One of the Vice-Presidents, the Rabbi and the President of the Sisterhood shall be ex-officio members of the Committee.

The Committee shall:

- a) not make any public announcement or communication without the approval of the Executive Committee.

## VI. THE CEMETERY

6.1 **CEMETERY COMMITTEE** Subject to the control of the Executive Committee, the Cemetery Committee shall be responsible for all matters pertaining to the Cemetery of the Congregation and for the enforcement of all regulations governing the Cemetery.

6.2 **APPLICABLE LAWS** Interment and exhumation shall be performed in accordance with the rules of Orthodox Judaism (as set forth in the 'Shulchan Aruch')<sup>14</sup> and with the laws of the Province of Quebec.

6.3 **BURIAL SERVICES** Burial Services shall be performed by a minister of the Congregation, who shall be entitled to a fee from the party requesting his services, or by any other qualified person acceptable to the Chairman or Executive Committee.

6.4 **CREMATION** In the event of cremation, funeral services may be performed by the minister; but no burial service shall take place at the Cemetery unless conducted by a layman.

6.5 **SYNAGOGUE SERVICE** Subject to the approval of the Executive Committee, the body of a member who has rendered distin-

<sup>14</sup> Sixteenth-century law code written by Rabbi Joseph Caro now the standard code (with glosses) for Ashkenazic Jews.



guished services to the Congregation or to the community may be honoured and funeral services performed within the Synagogue.

- 6.6 **MINISTERS** Ministers who die in office or who are on pension from the Congregation after retirement from office and their spouses shall be interred and their graves maintained at the charge of the Congregation.
- 6.7 **BURIAL PERMISSION** Burial permission shall be granted by the Cemetery Committee upon determining that the deceased member was not or, in the case of interment of a relative, the member is not in default in the payment of any sums due to the Congregation and upon receiving adequate assurances from heirs or representatives of the deceased that the expenses of the burial and maintenance of his grave will be paid.
- 6.8 **DIMENSIONS** For the sake of modesty, no monument of tombstone shall exceed three feet (3') in height or three feet (3') in width, or, if the plot is sufficient in size for four graves or more, four feet six inches (4'6") in width. No railing, ornament or physical reproduction of the deceased shall surround or adorn the plot.
- 6.9 **INSCRIPTIONS** Inscriptions on monuments and tombstones may be in Hebrew, English and French.

## VII. AUXILIARY ORGANIZATIONS

- 7.1 **ORGANIZATIONS** The Congregation may have such Auxiliary Organizations (such as Sisterhood, Men's Auxiliary, youth group, nursery, afternoon and Sunday School, etc.) as shall from time to time be authorized by the Board.

## VIII. ADVISORY COUNCIL

- 8.1 **GENERAL** The Board may constitute an Advisory Council ('Council') whose duty will be to counsel the Board of Trustees on vital matters relating to the welfare of the Congregation. When constituted, the ensuring provisions will apply.
- 8.2 **COMPOSITION, ELIGIBILITY AND APPOINTMENT** The Council shall not exceed twenty-four appointed members and a number of ex-

*officio* members. Members of the Congregation may be appointed by the Board of Trustees to serve on the Council for a period of four years. All former officers of the Congregation, without appointment, shall become and remain *ex-officio* members of the Council. Incumbent members of the Board and Executive Committees shall not be members of the Council.

## IX. ADOPTION AND AMENDMENT OF BY-LAWS

- 9.1 **AMENDMENTS** These By-Laws may be amended at any special meeting of the Congregation called for such purposes or at any Annual General Meeting of the Congregation, by two-thirds vote of the members present and voting provided a quorum is present throughout and provided the text of any proposed Amendment be circulated with the notice of the Meeting at which it is to be considered. A proposal for Amendment which has been rejected by the Congregation may not be re-submitted, unless permitted by the Board, for the consideration of the Congregation unless twelve months have elapsed since the time of rejection.

BY-LAWS (approved 1992 and amended 1993)

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## I. DEFINITIONS

- 1.1 a) 'Member' means any male or female person who is a member pertinent to Section III of these By-Laws and who is in good standing.

## II. GENERAL PRINCIPLES & OBJECTS OF THE CONGREGATION

- 2.1 DEDICATION Nothing contained in the By-Law or regulations of the Congregation shall be interpreted so as to compel or suffer any act which, in the opinion of the Board, would be contrary to the practice or principles of traditional Judaism.

218 Selected Documents

- 2.2 **TRADITION** Services shall be conducted in the Spanish Hebrew tradition (Sephardic Hebrew Minhag) of the Congregation.
- 2.3 **WORSHIP** The mode of worship shall be in accordance with the Orthodox Jewish tradition.
- 2.4 **OBJECTS** The objects of the Congregation shall be to maintain a synagogue and to foster religious, cultural, and educational endeavors and activities to help further the cause and objectives of the Congregation and of Judaism.

III. MEMBERSHIP

- 3.1 **QUALIFICATIONS** Any persons of majority age of the Jewish faith and good moral character, who undertakes [*sic*] to comply with the By-Laws and regulations of the Congregation, shall be eligible for membership upon application.
- 3.2 **CATEGORIES OF MEMBERSHIP**
- a) **FAMILY MEMBERSHIP** Such membership shall be extended to married couples and shall entitle husbands and wives to all membership privileges and confer upon them the right to one vote per person to be exercised at meetings of the Congregation.
- b) **SENIOR MEMBERSHIP** Such membership shall be extended to single, divorced or widowed men and women over 30 years of age and shall entitle them to all membership privileges and confer upon them the right to one vote per person at meetings of the Congregation. Senior membership shall be automatically extended to a Family Member upon the death of her or his spouse. Such widows or widowers shall continue membership under their own name and shall continue to have all membership privileges extended to them and to their children. This privilege ceases upon the remarriage of the widow or widower.
- 3.3 **MEMBERSHIP PRIVILEGES** Membership privileges comprise, amongst others, the right to:
- i) attend religious services of the Congregation;
  - ii) rent seats in the synagogue for the member, spouse, and their children residing in their house;

- iii) affiliate with all societies and organizations of the Congregation;
- iv) obtain tuition and counseling from the Congregation clergy;
- v) registration of births, marriages, and deaths in the Register of Civil Status;
- vi) burial in the Congregation Cemetery provided a burial plot has been reserved;
- vii) attend, and vote as defined under Section 3.2 above, at all meetings of the Congregation as defined under Section V herein;
- viii) hold an elective office of the Congregation.

**3.4 APPLICATIONS** Applications for regular membership in the congregation:

- a) shall be made in writing to the Membership Committee in such form as may be prescribed by that committee, whereafter the Committee will report with respect to each application to the Board at the first meeting of the Board following reception by the Committee of such application;
- b) shall be acted upon by the Board which may accept or refuse an application. Reasons for refusal of an application for membership must be given by the Board and communicated to the applicant. Refusal of an application shall not preclude submission of a new applicant; and
- c) shall be considered and, if in the interest of the Congregation, may be granted by the Board with priority to children of (i) members who rent seats in the main sanctuary and then (ii) other members of the Congregation.

**3.5 SUSPENSION AND ABROGATION OF MEMBERSHIP** Notwithstanding anything to the contrary herein, and upon a vote of two-thirds of the Trustees present at any other regular or special meeting, the Board may expel any member for conduct which brings discredit upon the Congregation, upon its Officials or upon the Jewish faith.

**3.6 REINSTATEMENT** An expelled member shall not be reinstated unless with the concurrence of two-thirds of Trustees voting and present at a meeting of the Board held for such purpose pursuant to a notice given in the manner specified in Section 3.5.

#### IV. ADMINISTRATION

- 4.1 **GENERAL** The affairs and business of the Congregation shall be vested in and administered by:
- a) the General membership;
  - b) the Board of Trustees;
  - c) the Executive Committee.
- 4.2 **POWERS OF THE BOARD** The Board shall approve the hiring, dismissal and number of officials and ministers of the Congregation.
- 4.3 **VACANCY ON THE BOARD** A vacancy on the Board may be filled by resolution of the Board.
- 4.4 **POWERS OF EXECUTIVE COMMITTEE** The Executive Committee shall:
- a) fix salaries of officials and employees;
  - b) hire or dismiss all persons not otherwise provided for in these By-Laws.
- 4.5 **INDEMNIFICATION** The Congregation shall indemnify any member of the Board of Executive Committee and his heirs and legal representatives against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgement, reasonably incurred in respect of any civil, criminal or administrative action or proceeding to which the said member is a party by reason of being or having been a member of the Board or Executive Committee, if:
- 1) the member acted honestly and in good faith with a view to the best interests of the Congregation; and
  - 2) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, the member had reasonable grounds for believing the member's conduct was lawful.

#### V. MEETINGS

- 5.1 **AGENDA OF ANNUAL GENERAL MEETING** The agenda of the Annual General Meeting shall include prayer of thanksgiving and invocations (optional).

## VI. OFFICERS

- 6.1 OFFICERS The Congregation shall have the following Officers ('Officers'):
- a) President;
  - b) Executive Vice-President and two Vice-Presidents;
  - c) Parnass;
  - d) Secretary;
  - e) Treasurer;
  - f) Such other officers as the Board may determine by resolution.
- 6.2 GENERAL The following shall apply to all Officers:
- a) the Officers shall be elected at each Annual General Meeting of the Congregation for a term of one (1) year and until the election of their successors at the next Annual Meeting;
  - b) any regular member of the Congregation shall be eligible for office provided he has served at least one (1) year as a member of the Board. Previous service on the Executive Committee for at least one (1) year shall be required for the offices of the President and Executive Vice-President;
  - c) no officer, other than the Parnass, shall be eligible for re-election to the same office for more than four consecutive terms. The Parnass shall not be eligible for re-election for more than seven consecutive terms;
  - d) no person shall hold more than one office at the same time;
  - e) subject to the By-Laws, in the event of the death, resignation or incapacity of any Officer, a successor shall be elected by the Board to fill his vacancy for his unexpired term;
  - f) Officers may be entitled to seats of honour in the Synagogue, subject to religious rules as to the seating of the men and women therein.

## VII. OFFICIALS

- 7.1.1 ENGAGEMENT The engagement of ministers and officials of the Congregation shall be in writing for a period not exceeding four (4) years. The terms and conditions of such contracts and of any terminations thereof shall be determined by the Board of Trustees, save that the financial terms shall be disclosed to members of



the Executive and Search Committees only. After ten (10) years of service, the Board may enter a contract with an official for a period not exceeding five (5) years.

- 7.2 **PERFORMANCE OF DUTIES** No official shall perform any of the functions of his office outside the precincts of the Congregation without the consent of the President ... The Board may establish rules whereby a person other than a minister of the Congregation may conduct religious services or perform any religious ceremony in the Synagogue, its cemetery, in private homes or in any other place where such service or ceremony is being held under the auspices of the Congregation.
- 7.3 **OFFICIALS** The following shall be among the officials, religious and lay, of the Congregation:
- 7.4 **THE RABBI** The Rabbi shall:
- k) arrange with the ministers, for substitutions among themselves at religious services or other events of the Congregation in the events of his absence, illness or incapacity;
  - n) exercise his best efforts to attend the houses of the mourning members, or arrange for another member of the clergy to attend;
  - o) exercise best efforts to visit members who are ill or incapacitated, or arrange for another member of the clergy to visit;
- 7.5 **ASSISTANT RABBI** The assistant Rabbi shall perform such duties as reasonably may be expected of him by the Rabbi, in consultation with the Parnass or the Executive Committee.

## VIII. COMMITTEES

- 8.1.1 **LIST OF STANDING COMMITTEES** The following shall be Standing Committees of the Congregation:
- Cemetery Committee (see IX)
  - Religious Services Committee (8.2)
  - Membership Committee (8.3)
  - Seating and Hall Committee (8.4)
  - Decorum and Reception Committee (8.5)

Publicity and Bulletin Committee (8.6)  
 Program and Youth Committee (8.7)

- 8.4 SEATING AND HALL COMMITTEE One of the Vice-Presidents shall be an ex-officio member of the Committee.

The Committee shall supervise all the allotment of seats in the sanctuary, chapel and other places of worship of the Congregation as they become available from time to time in accordance with the By-Laws and Regulations of the Congregation and the terms and conditions determined by the Board.

The Committee shall determine and allocate the use of the Synagogue, chapel, Congregational halls and other rooms, and arrange for any charges relating thereto.

- 8.7 PROGRAM AND YOUTH COMMITTEE One of the Vice-Presidents and the President of the Men's Association and Sisterhood shall be ex-officio members of this Committee.

The Committee shall formulate and implement programs and activities in keeping with, and to foster the development of, the purposes and objectives of the Synagogue and to encourage the activity and participation of youth in the affairs of the Congregation.

## IX. THE CEMETERY

- 9.5 CREMATION Cremation is not consistent with the Laws of Orthodox Judaism and therefore no memorial service shall be performed by any Minister of the Congregation and burial shall not be permitted in the Cemetery of the Congregation.

- 9.9 MONUMENTS Before any monument or tombstone may be erected, its design, location and the inscription thereon shall be approved by the Cemetery Committee which may modify or reflect the same. All Hebrew inscriptions shall be approved by the Rabbi.

- 9.10 DIMENSIONS For the sake of modesty, no monument or tombstone shall exceed three feet (3') in height or three feet (3') in width, or, if the plot is sufficient in size for four graves or more, four feet six inches (4'6") in width. No railing, ornament or physical reproduction of the deceased shall surround or adorn the plot.

- 9.11 **INSCRIPTIONS** Inscriptions on monuments and tombstones may be in Hebrew, English and French.

## XII. INTERPRETATION

- 12.1 **TRANSCRIPTION** In the event of any conflict between the English and French texts of these By-Laws, the English text shall prevail.
- 12.2 **GENDER** The masculine shall include the feminine and the singular shall include the plural, save where the context evidently requires otherwise.

## **Holy Blossom Hebrew Congregation of Toronto**<sup>15</sup>

### BY-LAWS (1871)

#### PREAMBLE

WHEREAS, 'Order is Heaven's first law,' and no association of men can be harmoniously governed without a well constituted code of Rules for their guidance.

*Therefore* the Hebrew Congregation of Toronto have adopted the following By-laws:

#### ARTICLE 1 - NAME

That this corporation shall be named (Toronto 'Holy Blossoms' Congregation.)

#### ARTICLE 2 - RITUAL

That this Congregation is and shall be conducted in conformity with the ancient orthodox principles and customs of Judaism in consonance with the Polish form of Prayers.

<sup>15</sup> Originally an Orthodox congregation, Holy Blossom gradually relaxed its approach to tradition. Today it is a Reform congregation.

## ARTICLE 3 – GOVERNMENT

1. That this Congregation shall consist of such persons of the Jewish faith from the age of eighteen years and upwards as shall be elected members thereof, according to the regulations hereinafter made.
2. That the officers of this Congregation shall also be the School Committee ...

## BY-LAWS (Revised January 1, 1894)

## ARTICLE 1 – NAME

This Congregation shall be designated: Toronto Hebrew Congregation 'Holy Blossom;' and shall consist of such persons of the Jewish faith, of the age of eighteen years and upwards, as shall be elected members thereof in accordance with the regulations hereinafter stated.

## ARTICLE 2 – RITUAL

The services of this Congregation shall be conducted in conformity with the Minhag Orthodox.

## ARTICLE 3 – GOVERNMENT

1. The Executive Board of this Congregation shall consist of the following officers: President, Vice President, Treasurer, Secretary and seven other members as Trustees, who have in all respects complied with these By-Laws. All officers shall retain office until their successors are selected.
5. The Annual General Congregational meeting shall be held on Sunday the first day of Selichous,<sup>16</sup> at which meeting it shall be the duty of the Executive Board to submit to the members a full statement of the receipts and disbursements of the Congregation during the preceding twelve months. At or before this meeting,

<sup>16</sup> *Selichous* or *selihot*, the week before Rosh HaShanah when penitential prayers are recited at morning prayers. The word properly refers to the prayers themselves.

members must pay their accounts in full, and only those doing so can retain their and their wives' seats.

After all general business has been transacted, the nomination of officers for the ensuing year shall take place.

6. A Special Congregational meeting shall be held on the Intermediate Sunday of the Festival of Tabernacles, for the election of officers, who shall assume their offices on the following Sabbath.
7. All dues for seats shall be payable monthly and in advance. All fines shall be payable two weeks after their infliction.
8. The annual dues for seats shall be as follows:

For the 32 seats on 1 <sup>st</sup> four benches on each side, . . . . .	\$50.00
For the 2 corner chairs, . . . . .	\$50.00
For the 8 seats on 1 <sup>st</sup> double-bench in centre, . . . . .	\$50.00
For the 8 seats on the 1 <sup>st</sup> cross-bench on each side, . . . . .	\$40.00
For the 16 seats on 2 <sup>nd</sup> and 3 <sup>rd</sup> cross-benches on each side, . . . . .	\$30.00
For the 8 seats on 2 <sup>nd</sup> double-bench in centre, . . . . .	\$30.00
For the remaining member-seats, . . . . .	\$24.00

Single members shall have the right to purchase gentlemen's seats at 3/5 of the prices as graded. Widows and single ladies shall have the right to purchase ladies' seats at 2/5 of the prices as graded. Seat-holders shall pay \$12.00 per annum.

10. No more than three names shall be mentioned in one Me Sha-bi-rach.<sup>17</sup> No person shall be allowed more than one Me Sha-bi-rach. No 'Me Sha-bi-rach' or 'Ile Mo-li Ra-cha-mim,'<sup>18</sup> shall be made by any one not called up to the Torah, unless notice of the name be given beforehand. No one shall leave the Synagogue for the 'Memorial Service for the Dead.'<sup>19</sup>
11. All elections shall be by ballot. The ballot shall not be used to decide any other question.
12. The hour for commencing Sabbath morning service shall be nine o'clock.
13. Any one requiring the use of the Synagogue, for the purpose of being wedded, shall previously pay the Congregation not less than

17 Blessings for family and friends recited when one is called to read from the Torah.

18 The memorial prayer for the dead.

19 In many Orthodox synagogues, it is customary for those whose parents are living to absent themselves during the recitation of the prayer for the dead.

ten dollars therefore. For marriages solemnized elsewhere than in the Synagogue no fee shall be demanded by the Congregation, but the Minister shall in no case perform the marriage ceremony without the sanction of the President.

16. Any member not attending a special meeting, after signing a requisition to convene the same, unless prevented by sickness or absence from the City, shall be fined \$2. Any member not coming to order at a meeting, when requested by the President, shall be fined \$1. Any member leaving a meeting without permission from the President shall be fined 50c.
17. The Congregation shall stand up, during Divine service, when the President stands up, and shall sit down when the President sits down.

#### ARTICLE 4 – PRESIDENT

6. He shall have the superintendence over the officials of the Congregation, and shall see that they faithfully discharge their respective duties. Every application for their services shall be made, in writing, to him.
7. He shall preserve order and decorum, also manage all matters in the Synagogue during Divine Service.

#### ARTICLE 8 – TRUSTEES

7. Any Trustee neglecting his duties or absenting himself from three successive meetings of the Executive Board shall, unless in case of sickness or absence from the city, be deemed as refusing to act; and his office shall thereupon be declared vacant.

#### ARTICLE 9 – MEMBERS

1. Any Israelite desirous of becoming a member of this Congregation shall send in a written application to the Secretary, accompanied by \$5.00. The name of such applicant shall be balloted for at the next ensuing Trustee meeting, and the majority of the ballots cast shall be necessary to elect the applicant a member. If he be elected, the above sum of \$5.00 shall be placed to his credit towards dues in advance; if rejected, the money shall be refunded to him. No seat holder in arrears shall be balloted for, or admitted as a member.

2. Every member shall be entitled to a seat in the Synagogue for himself and (if married) a seat for his wife; to vote on all questions at Congregational meetings; to free burial for himself, as also for his wife and unmarried children (except his sons over twenty years of age), in the event of their predeceasing him; to the free admission of his children to the Sabbath School; and to the free services of any of the paid Congregational officials when required, if the permission of the President be first obtained. A non-resident member, however, shall pay all traveling expenses of any official so required.
3. Any member who shall be indebted to the Congregation an amount exceeding ten dollars, during a period of one month or over, shall be considered in arrears, and shall be deprived of his and his wife's seats, and forfeit all other privileges of membership.
4. A member, when addressing the President, shall rise in his place, confine himself to the question and avoid personalities. He shall not speak longer than ten minutes, nor more than twice upon the same subject.
5. Widows or unmarried ladies, of the Jewish faith, may be elected members of the Congregation and the dues payable by them shall be two-fifths of those payable by male members. This shall give them all the privileges of membership, with the exception of taking part in the proceedings at the Congregational meetings.
6. Widows of deceased members shall be allowed a seat, without charge, for six months after the death of such members. At the expiration of that time, they shall pay \$5.00 per annum for the same during widowhood, unless they acquire membership as per section 5.

#### ARTICLE 10 – SEAT-HOLDERS

1. A seat-holder shall have a seat for himself, and (if married) for his wife, such seats to be tenable only from 'Rosh Ha-sha-nah to Rosh Ha-sha-nah,' and at the discretion of the Trustees. Members are, in all cases, to take precedence.

#### ARTICLE 11 – SCHOOL BOARD

1. The affairs of the Congregational Hebrew and Religious school shall be managed by a committee consisting of the President, Vice-President, Treasurer and four other members as School Trustees.

## ARTICLE 12 – BURIAL-GROUND

1. The Burial-ground shall be held in trust for the Congregation by two Trustees, specially elected for that purpose 'by the majority of the male voters of the Congregation above the age of 21 years.'
2. There shall be a 'Gab-ba Beth-cha-yim,'<sup>20</sup> and Ka-bro-nim Gab-ba,'<sup>21</sup> who shall be assisted by a committee of two. These three officers shall be elected at the Annual General Congregational meeting.
3. It shall be their duty to assign graves in proper rotation, in accordance with the Cemetery-plan, and to superintend interments.
4. Members shall have the privilege to acquire, and reserve, special burial-plots upon payment of \$15 per grave.
5. Israelites not members of the Congregation, upon the sanction of the Executive Board being first obtained, shall be charged not less than the following rates for graves in the rotation-line: For a child under 12 years of age, \$5; for an adult, \$15. In cases of poverty, however, the Executive Board shall have power to reduce these charges. No non-member shall be charged less than \$4.50 for a special grave.

No one except the Minister shall have the right to officiate on the Burial-ground without the consent of the President.

## ARTICLE 14

1. Any amendment of, addition to, or repeal of these by-laws may be proposed by any member at either of the Quarterly Congregational meetings or at the Annual General Congregation meeting. If such amendment, addition or repeal be carried by a *two-thirds* vote of the members present, it shall then become law.

## The Holy Blossom Toronto Hebrew Congregation

BY-LAWS (Toronto - December, 1955)

### ARTICLE 1 – NAME

The Congregation shall be known and designated "The Holy Blossom" TORONTO HEBREW CONGREGATION, and shall consist

<sup>20</sup> Cemetery steward.

<sup>21</sup> Gravediggers steward.



of such persons of the Jewish faith as shall be elected members thereof by the Board of Trustees in accordance with the regulations hereinafter stated.

## ARTICLE 2 – RITUAL

1. The services shall be conducted in conformity with the Ritual of Reform Judaism as now observed and no change shall be made in such ritual or in the mode of worship unless sanctioned by four-fifths of the members present at a meeting of the Congregation, notice of which meeting shall have been given and which notice shall specify the proposed change.

## ARTICLE 3 – MEMBERSHIP

1. The unit of membership in the Congregation shall be the individual except in the case of married persons, when a double membership shall be required.
2. A full member shall be entitled to all the privileges of membership, including voting rights.

## ARTICLE 5 – BOARD OF TRUSTEES

1. The affairs of the Congregation shall be managed by a Board of Trustees, who may exercise all such powers of the Congregation as are not by the by-laws of the Congregation required to be exercised by the members in general meeting, and without limiting the generality of the foregoing, the Board of Trustees shall have power to:
  - a. Elect members in accordance with the constitution and by-laws.
  - b. Determine and fix all dues, assessments, and subscriptions for memorials, settle, waive, compromise or remit the whole or any portion of such dues, assessments, payments or donations as may be determined at any meeting of the Board.
  - c. Engage employees and fix their duties and compensation.
2. The Board of Trustees shall consist of the Officers of the Congregation, namely: The President, Vice-President, Treasurer, Financial Secretary and Recording Secretary, the immediate Past President of the Congregation, all Honorary Officers and Trustees, and twelve additional Trustees, of whom one shall be the President of the Brotherhood, one the President of the Sisterhood, and one other woman designated by the Sisterhood.

## ARTICLE 7 – OFFICERS

4. The President shall:
  - c) Have superintendence over the officials of the Congregation and shall see that they faithfully discharge their duties.

## ARTICLE 10 – RABBI

1. The Rabbi shall be elected at a regular Meeting of the Congregation or a special meeting duly called for such purpose.
2. It shall require a majority vote of those present to elect the Rabbi for such salary and period of time and upon such terms as may be determined.
3. The Rabbi shall be an ex-officio member of the Board of Trustees and of the Congregation, but shall not be entitled to vote.
4. The Rabbi shall perform all duties incumbent upon and in accordance with his office.

## ARTICLE 11 – COMMITTEES

1. There shall be the following standing committees:
  - c) A Membership Committee, consisting of at least five members, whose duty it shall be to promote such activities and devise ways and means to increase the membership of the Congregation.
  - d) An Assessment Committee, consisting of at least five members, whose duty it shall be to pass on all dues and assessments. The Chairman of the Membership Committee shall be an ex-officio member of the Assessment Committee.
  - e) A Religious School Committee, consisting of at least five members, of which the Rabbi shall be an ex-officio member, whose duty it shall be, with the sanction of the Board of Trustees, to make all regulations necessary for the government of the religious school, including the appointment of teachers and adoption of course of study.
  - f) A Cemetery Committee, consisting of at least three members, whose duty it shall be to have the supervision and control of the cemetery.
2. There shall also be the following Committees:
  - c) A Choir Committee, consisting of at least three members, of which the Rabbi shall be an ex-officio member, whose duty it

shall be, with the sanction of the Board of Trustees, to engage the organist, the members of the choir and to supervise the music arranged for the religious services.

- d) A Seating Committee, consisting of at least three members, whose duty it shall be to superintend the seating of members.

#### ARTICLE 12 – SEATING

1. No seats shall be made available to non-members during High Holidays, except as may be determined by the Board.

#### ARTICLE 13 – BURIAL

Every member shall be entitled to purchase plots for burial purposes, at such prices and upon such terms as may be prescribed by the Cemetery Committee and approved of by the Board of Trustees.

#### ARTICLE 15 – BY-LAW AMENDMENTS

1. The by-laws of the Congregation shall not be altered or amended except as herein provided for, unless by a two-thirds majority vote of the members of the Congregation present at an annual, special or general meeting of the members.
2. The Board of Trustees shall have power from time to time by two-thirds majority vote, to adopt, amend and alter the by-laws of the Congregation but such adoptions, amendments or alterations shall be in force and effect as by-laws only until the next Annual General Meeting of the members of the Congregation, unless in the meantime, they have been confirmed at a Special or General Meeting of the Members of the Congregation duly called for that purpose.

#### BY-LAWS FOR THE OPERATION AND MAINTENANCE OF CEMETERIES OWNED BY THE HOLY BLOSSOM CONGREGATION

#### ARTICLE 4 – GENERAL RULES AND REGULATIONS

1. All funerals shall be subject to such rules and regulations as the Cemetery Committee may prescribe from time to time.

2. No interment shall take place without the permission of the chairman or some person lawfully acting for him. Such permit shall contain the name, age and nativity, date of death and burial plot of deceased, and such other information as may be required.
3. No interments shall be made on the Sabbath or religious holidays without express permission of the Cemetery Committee.
4. The Rabbi of the Congregation or someone representing him with his consent shall conduct or assist in every ceremony at the interment of the dead in the cemeteries aforementioned.
5. In no case shall any disinterment be made without the sanction of the Committee and then only after the consent of the local health officer and the owner of the plot has been obtained.
6. Owners and their relatives may enter the cemetery at all reasonable hours, but in case of violation of any rules of the cemetery, such privilege may be immediately revoked.

## CONSTITUTION (December 6, 1992)

### ARTICLE 2 – THE CONGREGATION

#### 2.02 – Religious observance

The Congregation shall follow the precepts of reform Judaism as interpreted by the Central Conference of American Rabbis and the Union of American Hebrew Congregations. However, no substantial changes in religious practice shall be made without the prior approval of the Board.

#### 2.03 – Unassigned pew plan

1. The Congregation shall be conducted on the unassigned pew plan. No seat for worship services shall be sold, leased or licensed to any member of the Congregation nor shall any person be given a special seat on account of any dues, donation or endowment.
2. Notwithstanding subsection (1), special seating may be reserved in the Sanctuary on the High Holy days for members with disabilities, the conditions for which shall be determined by the Board on the recommendation of the Chair of the appropriate department.

#### 2.04 – Burial

Every member shall be entitled to purchase plots for burial pur-

poses at such prices and upon such terms as may be prescribed by the Board on the recommendation of the cemetery committee.

### ARTICLE 3 – MEMBERSHIP

#### 3.01 – Admission to membership

Any person eighteen years of age or over professing the Jewish faith may be admitted to membership in the Congregation by resolution of the Board.

#### 3.02 – Children of members

Every child of a member upon reaching the age of eighteen shall automatically become a member, but upon reaching the age of twenty-one shall cease to be a member unless they apply for and are admitted to membership by resolution of the Board.

#### 3.03 – Eligibility

Subject to section 4.03, every member shall have the right to vote at any meeting of the Congregation and to stand for election as an Officer or a member of the Board.

### ARTICLE 4 – DUES AND ASSESSMENTS

#### 4.01 – Obligation to pay

A member shall pay such dues (based upon a fair share plan) and assessments at such times and on such terms as may be determined by or with the approval of the Board.

#### 4.02 – High Holy Day seating

A member who is in arrears of dues or assessments shall not be entitled to tickets for seating at High Holy Day services except as may otherwise be determined by the Board.

### ARTICLE 5 – BOARD OF TRUSTEES

#### 5.01 – Establishment of Board

The affairs of the Congregation shall be directed by a Board of Trustees which, except as otherwise provided herein, shall have full power and authority to manage the affairs of the Congregation.

### 5.02 – Membership

The Board shall consist of the following members of the Congregation, and, except where noted, all of whom shall have the right to vote:

- a) the Officers as set out in section 6.01;
- b) the twenty-four members elected in accordance with Article 26;
- c) each department chair referred to in section 8.03 who has not been elected in accordance with Article 26;
- d) the chair or president, or a delegate selected from among its Officers, of each auxiliary unit referred to in Article 10;
- e) the wardens and honorary trustees referred to in sections 5.14 and 5.15 who (except the honorary president and the immediate past president who shall be voting members of the Board) shall be non-voting members of the Board, for life; and the following members of the professional staff, none of whom shall have the right to vote:
  - f) the rabbis referred to in section 11.01, the executive director, the director of education, the cantor and the co-ordinator of the Department for Jewish Living.

### 5.03 – Term of office

Except as otherwise provided in this constitution, the term of office of a member of the Board shall be for two years.

### 5.04 – Successive terms of Board members

A member of the Board may be re-elected for one further consecutive two-year term. For the 1993/94 year, one half of the slate shall be elected for a term of one year; and the other one-half for a two-year term.

### 5.05 – Successive terms of Officers

No Officer shall serve for more than three consecutive terms in the same office, except that a vice-president may be elected to hold office through the incumbencies of two successive presidents.

## ARTICLE 7 – EXECUTIVE COMMITTEE

### 7.01 – Establishment and composition

There shall be an Executive Committee of the Congregation composed of the following:

- a) the Officers;
- b) the department chairs;
- c) the immediate past president;
- d) the honorary president, if any;
- e) the honorary trustees (past presidents);
- f) the presidents of Sisterhood and Brotherhood; and
- g) such other persons as the president may from time to time appoint (up to a maximum of two (2)), and the president may at any time terminate any such appointment.

#### 7.02 – Right to vote

Only the Officers, the department chairs and the immediate past president shall have the right to vote.

#### 7.03 – Functions

The Executive Committee shall act as a steering committee for the Board and deal with all matters referred to it by the Board or the president, and in so doing shall act in accordance with such directions as may from time to time be given to it by the Board.

### ARTICLE 8 – DEPARTMENTS

#### 8.01 – Constitution of departments

The functions of the Congregation shall be organized and performed through such departments, not more than six in number, as may from time to time be constituted by the Board.

#### 8.02 – Existing departments

As of the date of the adoption of this constitution, the departments are as follows: Worship, Education, Jewish Living, Administration, Finance and Membership.

#### 8.03 – Department chairs

There shall be a chair of each department and, where appropriate, one or more vice-chairs. They shall all be appointed annually by the president and, where appropriate, from among the elected Board members.

#### 8.04 – Committees within departments

The function of each department shall be performed through the

committees in the department and the department chairs shall be responsible for the functioning of the committees within their departments.

## ARTICLE 9 – COMMITTEES

### 9.02 – Establishment of committees

There shall be the following standing committees of the Board:

- a) a budget and finance committee;
- b) a cemetery committee;
- c) a dues and assessment committee;
- d) an endowment fund administrative committee;
- e) an endowment fund investment committee;
- f) a house and property committee;
- g) a personnel committee;
- h) a religious education committee;
- i) a worship committee;
- j) an audit committee;

and such other committees as may from time to time be constituted by the Board.

### 9.03 – Assignment to departments

Each committee shall be assigned to a department by the Board.

## ARTICLE 10 – AUXILIARY UNITS

### 10.02 – Existing auxiliary units

Each auxiliary unit, being Sisterhood, Brotherhood and Habsty [the youth group], shall be allowed one voting position on the Board to be the chair or president or a delegate as selected among its Officers.

## ARTICLE 11 – PROFESSIONAL STAFF MEMBERS

### 11.01 – Rabbis

There shall be a senior rabbi of the Congregation and such associate and assistant rabbis as the Board may from time to time determine. The senior rabbi shall be the religious leader of the Congregation and shall have such other responsibilities as may be assigned by the Board.



11.02 – Executive Director

There shall be an executive director of the Congregation who, under the direction of the president, shall be responsible for the administrative activities of the Congregation.

11.03 – Director of Education

There shall be a director of education of the Congregation having the duties and responsibilities provided in article 23, and such other responsibilities as may be assigned by the Board.

11.04 – Cantor

There shall be a cantor of the Congregation who shall be the director of liturgical music and shall, in consultation with the senior rabbi, be responsible for the music provided at all worship services, and shall have such other responsibilities as may be assigned by the Board.

11.05 – Other staff members

There shall be such other members of the professional staff having such duties and responsibilities as the Board may from time to time determine.

ARTICLE 12 – APPOINTMENT

12.01 – Power of the Board

The Board shall have the sole power to appoint the senior rabbi, the executive director, the director of education, any associate rabbi, any assistant rabbi and the cantor, and may give such directions, if any, as to the terms of the initial contract with any such appointee as it sees fit.

12.02 – Search committees

When a vacancy occurs in any of the positions referred to in section 12.01, the president shall designate an existing committee or appoint a search committee for the purpose of recommending one or more candidates to fill such vacancy, and in the case of a search committee shall report the names of its chair and other members to the Board prior to the commencement of its activities.

## ARTICLE 13 – RENEWAL OF CONTRACTS

The appointment of any person holding any of the positions referred to in section 12.01 shall not be renewed without the prior approval of the Board, which may, in authorizing such renewal, give such directions, if any, as to the terms of the renewal contract as it sees fit.

## ARTICLE 15 – TERMINATION OF EMPLOYMENT

### 15.01 – Approval of the Board

The employment of any person holding any of the positions referred to in section 12.01 shall not be terminated without the prior approval of the Board, which may, in authorizing such termination, give to the Executive Committee such directions, if any, as to termination arrangements as it sees fit.

## ARTICLE 16 – OTHER EMPLOYMENT CONTRACTS

No employment contract for a fixed period longer than one year with persons other than those referred to in section 12.01 shall be entered into or terminated without the approval of the Executive Committee.

## ARTICLE 21 – ENDOWMENT FUND

### 21.01 – Purpose of fund

There shall be a fund to be known as the Holy Blossom Endowment Fund, the principal and income of which shall be applied as provided in this article for the purposes of maintaining, developing and expanding the religious, educational, cultural, social and philanthropic activities of the Congregation.

### 21.03 – Control of fund

The Board shall have the management and control of the Endowment Fund and may make rules and regulations with respect to the receipt of gifts and bequests.

### 21.04 – Endowment fund administrative committee

(1) The endowment fund administrative committee shall consist

of at least twelve voting members of the Board, two of whom shall be the financial secretary and the treasurer. A quorum for meetings of this committee shall consist of five voting members of the Board.

- (2) It shall be the function of this committee to make recommendations from time to time to the Board with reference to the promotion, expansion and administration of the Endowment Fund, but excluding those matters assigned to the endowment fund investment committee in section 21.05.

## ARTICLE 22 – BORROWING

### 22.02 – State of Israel Institutional Notes

The Congregation may from time to time, if authorized so to do by a resolution passed by at least two-thirds of those present and voting at a meeting of the Board, purchase State of Israel Institutional Notes and may borrow monies for such purpose on such terms and such security, if any, as shall be specified in or authorized by any such resolution, provided that the maximum aggregate principal amount of such notes held by the Congregation at any one time shall not exceed \$2,000,000 U.S. and the maximum aggregate borrowings for such purpose outstanding at any one time shall not exceed \$2,000,000 U.S.

## ARTICLE 23 – CONDUCT AND OPERATION

### 23.01 – Conduct of school

The Congregation shall conduct and maintain a school for the Jewish education of the children of its members.

### 23.02 – Religious education committee

Subject to section 9.09, the religious education committee shall be responsible for the operation of the school.

### 23.03 – Director of Education

The director of education shall, in consultation with the senior rabbi, and under the direction of the religious education committee, supervise and direct the operation of the school and its faculty.

## ARTICLE 24 – ATTENDANCE

### 24.01 – Children of members

Subject to section 24.02, only children of members of the Congregation may attend the school.

### 24.02 – Children of non-members

If, in the opinion of the committee constituted by the president, there are special circumstances justifying the admission of a child of a non-member, the director of education shall admit that child to the school on such terms as that committee may determine.

### 24.03 – Power of Board

The Board may from time to time set terms and conditions for the exclusion, admission, attendance or expulsion of any child referred to in section 24.01 or section 24.02.

## ARTICLE 33 – AMENDMENT TO CONSTITUTION

The Board may from time to time, by the vote of at least two-thirds of the members present and voting at a meeting of the Board called for that purpose, amend this constitution, but such amendments shall cease to be effective at the end of the next annual or special meeting of the Congregation unless ratified at such meeting.

## **Congregation of the House of Jacob (Calgary)<sup>22</sup>**

### DECLARATION OF INCORPORATION (1905)

We, the undersigned, being Hebrews residing at or near the City of Calgary, in the Province of Alberta, and desiring to become incorporated as a Religious Society or Congregation, under Chapter 66 of the Revised Ordinances of the North West Territories of Canada, 1905, being 'An Ordinance respecting Benevolent and other Societies' **HEREBY DECLARE:**

<sup>22</sup> An Orthodox congregation which later merged with Congregation Mikveh Israel.

1. The intended Corporate name of the Society is 'The Congregation of the House of Jacob.'
2. [The purposes of said congregation are:]
  - (h) To build a synagogue or other buildings for the purposes of religious worship, according to the Hebrew Faith, and to maintain, alter, repair, improve, extend and manage the same and to hold, conduct and carry on therein the services and sacraments of the Hebrew Faith.
  - (j) To purchase lands for, maintain, and use a cemetery or burial ground.
  - (m) To ensure and promote the extension of the Hebrew Faith.
  - (n) To organize, maintain and conduct a school for the education of the members and adherents of the congregation in the Hebrew Faith, history, language and literature.
  - (o) To hire and engage ministers, teachers and such other servants or officers as may be necessary or expedient for the purposes of the Society.
4. The Successors of these officers and Trustees shall be appointed as follows:

An annual meeting of the Society or Congregation shall be held on the First Monday after the day known in the Hebrew Faith as 'Atonement Day'. At this annual meeting each member of congregation in good standing shall have one vote and all the officers and trustees shall be voted for separately in the above order by ballot after being duly nominated and the candidate in each case having a majority of all the votes of those present, shall be duly elected.
5. The members of the Society or congregation shall be only males of the full age of eighteen years of the Hebrew Faith in good standing upon the books of the Society or Congregation, according to its by-laws, rules and regulations.

## **The Congregation House of Jacob – Mikveh Israel (Calgary)**

BY-LAWS (June 19, 1984)

BY-LAW ONE: NAME

The name of the Society shall be –

'CONGREGATION HOUSE OF JACOB – MIKVEH ISRAEL.'

## BY-LAW TWO: PURPOSES AND POWERS

1. The purpose of the Society is to provide facilities to observance and teaching of Orthodox Judaism.
2. To establish a school for teaching Judaism to members of the Jewish Faith and their children, in strict accord with Traditional tenets.
4. The Congregation shall conform to the tenets of Orthodox Judaism consistent [*sic*] with the written and oral law of the Torah.
5. The Congregation shall affiliate with the Union of Orthodox Jewish Congregations of America or Yeshiva University or both.

## BY-LAW THREE: MEMBERSHIP AND DUES

1. Only persons belonging to the Jewish Faith, as defined by Halacha,<sup>23</sup> are eligible to join the Congregation.
4. Assessments and dues may be varied or modified on an individual basis by a Financial Review Committee of the Board.

## BY-LAW FOUR: THE GOVERNMENT OF THE CONGREGATION

1. The Government of the Congregation shall be entrusted to a Board of Directors, consisting of elected members, various ex-officio members, and various appointed members all being members in good standing.
9. The Board may by a two thirds (2/3) majority, vote to remove any member of the Board for any cause which in its sole discretion it deems reasonable.
10. A petition to dissolve the Board of Directors bearing signatures of two thirds (2/3) of the total eligible voting membership will result in the immediate dissolution of the Board of Directors and the holding of new elections as soon as possible under the supervision of the Parnass and the Rabbi. The Parnass or the Rabbi shall send notice of the holding of the election as soon as possible.

## BY-LAW SEVEN: VOTING

3. Each individual member in good standing shall have the right to vote, (in family memberships, both the husband and wife are indi-

<sup>23</sup> Rabbinic law.

vidual members and each has one vote, dependant [*sic*] children have no vote).

#### BY-LAW NINE: THE RABBI

1. The appointment of the Rabbi shall be approved by a two-thirds majority vote of the Board of Directors.
2. No person may be considered for the position of Rabbi in the Congregation, unless he shall have true Orthodox Rabbinical Ordination (*S'micha*) from a recognized Yeshiva or authority.
3. All disputes in matters of a religious nature shall be decided by the Rabbi of the Congregation in keeping with Torah and Halacha. Such decisions may be appealed to a Beth Din,<sup>24</sup> of the Union of Orthodox Congregations or Yeshiva University.
4. A dispute or question of an Halachic nature which arises at a time that no Rabbi is employed by the Congregation, which the Religious Committee cannot answer or resolve shall be referred to the Union of Orthodox Congregations or Yeshiva University.
5. The Rabbi shall supervise all religious educational activities under the sponsorship of the Congregation. He shall be a member *ex-officio* of all Judaic Education Committees, including those of Akiva Academy.
6. The Rabbi shall keep registers of civil status as required by the laws of the Province of Alberta.

#### BY-LAW ELEVEN: CHANGES TO THE BY-LAWS

1. These By-laws may be amended at any Annual General Meeting or Special Meeting of the Congregation, by way of Extraordinary Resolution.
2. Passage of proposed amendments shall be by not less than a three-quarters vote of those present.
3. The following By-Laws shall be irrevocable and not subject to change, amendment, or repeal as long as there are three (3) dissenting votes to the proposed change, amendment, or repeal:

By-Law TWO: 4.

By-Law THREE: 1.

24 Rabbinical court.

- By-Law NINE: 2.  
By-Law ELEVEN: 3.

## DEFINITION OF GENDER

Wherever the masculine, neuter or singular are used, the same shall be deemed to apply to the masculine, feminine, neuter, singular or plural, according to the tenor and nature applicable.

## DEFINITION OF TERMS

FAMILY – Family shall be defined as father or mother or both and all dependant [*sic*] children.

## Congregation Shaarey Zedek (Winnipeg)<sup>25</sup>

CHAPTER 141, STATUTES OF MANITOBA, 1914, AS AMENDED BY CHAPTER 107, STATUTES OF MANITOBA, 1915, AND BY CHAPTER 100, STATUTES OF MANITOBA, 1942.

WHEREAS, by chapter 69 of 53 Victoria, being 'An Act to incorporate 'The Congregation Shaarey Zedek of Winnipeg,' the said congregation was incorporated for the purposes in the said Act set forth; and whereas, by chapter 118 of 5 and 6 Edward VII, being 'An Act to incorporate 'The Congregation Shaarey Shomayim of Winnipeg,' the said lastly mentioned congregation was incorporated for the purposes in the said Act set forth; and whereas the said congregations have by their petition prayed that said congregations be amalgamated and the respective members thereof be incorporated as one congregation, under the name 'The Congregation Shaarey Zedek,' for the purpose of the worship of God according to the usages and methods of the Jews and the maintenance of public worship according to the usages of the orthodox Jews, as exemplified by the chief rabbi of the United Hebrew congregations of the British Empire, and that said corporation should

<sup>25</sup> Originally an Orthodox congregation which merged with another Orthodox congregation, it is now Conservative.



be an independent self-governing body, the government of which should be vested in the said corporation, and that the said corporation should be amenable to no other religious or ecclesiastical body, and that it should elect its own officers, transact its own business, and determine what persons should be received and what excluded from the membership; and it is expedient to grant their petition.

2. The congregation shall be a congregational church of Jews, according to the faith and order of said Jews, as exemplified by the chief rabbi of the United Hebrew congregations of the British Empire. The congregation may, under its corporate name, contract or be contracted with, implead and be impleaded, sue and be sued, answer and defend, in all courts and places whatsoever in this Province.
8. (a) The entire administration, management, control and custody of the affairs, property and funds of the congregation shall be vested in a Board of Management, subject to the provisions of this Act and the rules, by-laws and regulations hereinafter provided for.
- (b) The Board shall consist of not less than ten and not more than fifteen members, elected at the Annual Meeting of the congregation, and shall hold office for a term of one year or until their successors are appointed.
10. The members of the congregation shall have power to formulate and pass by majority all necessary rules, by-laws and regulations for the management of the congregation with power to change, amend and alter from time to time the said rules, by-laws and regulations by a two-thirds vote of the members present at any general meeting of the congregation. Such rules, by-laws and regulations shall be and comprise the constitution of the congregation. (Amended as underlined, 1942.)
17. The congregation may appoint and induct a rabbi or officiating minister, and at pleasure may remove and appoint and induct another in his place at any time.
19. No member or officer of the congregation shall be liable for any debts thereof beyond the sum which shall be equal to the amount of his or her annual subscription or donation which may remain unpaid by such member or officer, and all members and officers of the congregation, not being in arrears under the said rules and regulations for subscriptions or otherwise, shall be wholly free from

liability for any debt or engagement of or on account of the congregation.

BY-LAW NO.1-A, GENERAL BY-LAW

Approved by the Congregation, June 22, 1982; Approved Amendment, December 16, 1982; Approved Amendment, June 20, 1983; Approved Amendment, May 16, 1984.

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BE IT AND IT IS HEREBY ENACTED as by-law of THE CONGREGATION SHAAREY ZEDEK, hereinafter called the 'congregation' as follows:

ARTICLE 1:

1. Every person of the Jewish Faith shall be eligible for membership and shall become a member upon acceptance of the application by the board of management (hereinafter called the 'board').
2. Dues and assessments payable by members shall be fixed by resolution of the board and shall be subject to confirmation at a meeting of the congregation. The board may, by resolution, fix special categories of membership with a special membership fee. A resolution affecting categories of membership, or dues or assessments of members is not effective unless and until it is confirmed at a special general meeting of the congregation duly called for the purpose.
4. A spouse of a member in good standing shall have all rights of a member as set out under this by-law.
5. A member may nominate or be nominated for membership on the board, and may vote at any meeting of the congregation, provided that the member is in good standing.
7. The board may suspend or determine the membership of any member who is not in good standing, or is guilty of such conduct as, in the opinion of the board, is unbecoming a member of the congregation. Suspension or termination of membership in the congregation shall be by a majority vote of the whole board and shall take place only at a duly constituted meeting of the board. Action shall be taken by the board only after notice to the member and after the member has had an opportunity to appear before the board.

## ARTICLE 2 – MEETING OF MEMBERS

9. Every question submitted to a meeting of members, excluding the election of membership to the board, shall be decided, at the discretion of the chairman, either by ballot or by a show of hands in the first instance, and in case of an equality of votes, the chairman shall have a casting vote. The chairman shall not have a vote except in the case of a tie. Every question at a meeting of members shall, unless otherwise required by law or by-law of the congregation, be decided by a majority vote.
10. Subject to the discretion of the chairman, attendance at all meetings of the congregation shall be restricted to members only.

## ARTICLE 3 – BOARD OF MANAGEMENT

1. Subject to the provisions of this by-law the administration, management and control of the affairs, property and funds of the congregation shall be vested in the board.
2. The board shall consist of the following persons:
  - a) life members of the board as of the date of this by-law;
  - b) the immediate past president of the congregation;
  - c) the four past presidents preceding the immediate past president;
  - d) during the existence of the brotherhood of the congregation, two members of the congregation appointed by the board by the brotherhood, each of whom shall hold office for a term of one year;
  - e) during the existence of the sisterhood of the congregation, two members of the congregation appointed to the board by the sisterhood, each of whom shall hold office for a term of one year;
  - f) twenty members of the congregation (except during the transitional period), ten of whom shall be elected to the board at each annual meeting of the congregation to hold office for a term of two years and thereafter until successors are elected;
  - g) the chairman of the cemetery committee and the chairman of the investment committee;
  - h) no member shall serve as an elected member of the board and as an elected member of the cemetery committee at the same time;
3. a) Each member of the board, at the time of this election and throughout his term of office, shall be a member in good standing of the congregation.

- b) Candidates who are elected to the board shall, upon assuming office, pledge themselves to devote the time and effort which is required of them for the fulfillment of their duties including attendance at religious services, and for the maintenance of the high standards of the congregation.

## ARTICLE 6 – COMMITTEES

### 7. ADULT LEISURE ACTIVITIES

- a) The adult leisure committee shall:
  - 1) provide a program of cultural and social nature for the senior citizens of the congregation; and
  - 2) encourage senior citizens to look upon old age as a time of creativity and learning.

### 8. CATERING COMMITTEE

- a) The catering committee shall consist of representatives of sisterhood, brotherhood, youth committee, the bar- and bat-mitzvah mothers and such other members as shall be appointed in accordance with the terms of this by-law.
- b) The catering committee shall supervise all caterers supplying food and refreshment to affairs held in the synagogue building, shall set a scale of fee subject to the approval of the board, and shall make recommendations to the board in respect of the catering policy of the congregation.

### 14. LONG RANGE PLANNING COMMITTEE

- a) The chairman of the long range planning committee shall be appointed by the president;
- b) The long range planning committee shall:
  - 1) seek out and identify new synagogue needs and new areas of possible service, examine and clarify the requirements of such projects, and refer them to the board;
  - 2) prepare a suggested scale of priorities and a timetable for new projects; and
  - 3) receive from the board, for study and report, suggested or proposed projects which may need intensive scrutiny.

## 15. MEMBERSHIP COMMITTEE

- a) The membership committee, following the rabbi's approval as to eligibility, shall consider all applications for membership, recommend the amount to be contributed by the applicant to special assessments or the building fund and the terms of payment thereof, and report the application together with its recommendation to the board.
- b) In case of financial hardship the membership committee shall have the authority to make special provisions for waiver of all or part of membership dues, building fund or other pledges or assessments.
- c) The membership committee shall:
  - 1) develop a program to increase congregation membership, seeking and encouraging the affiliation of new residents and of other residents who are not members of any other congregations;
  - 2) plan a membership orientation program and seek means of involving members who do not participate in congregation activities; and
  - 3) promote an atmosphere of cordiality and hospitality within the congregation community.

## 17. RITUAL COMMITTEE

- a) The ritual committee shall, in conjunction with the rabbi, be charged with the responsibilities for matters pertaining to the practice and doctrine of the Jewish religion in the synagogue, and shall:
  - 1) arrange for regular adult Worship services appropriate to the needs of the congregation for weekdays, Sabbaths, holidays and special occasions;
  - 2) strive continually to raise the level of public worship, by both increasing attendance and deepening the content of the worship services;
  - 3) present to the board any proposals for major changes in synagogue ritual for presentation to the membership. The ritual of the congregation shall be decided by the majority of two-thirds of the votes cast by the members of the congregation present at a special general meeting duly called for the purpose, at which at least seventy-five members are present.

- 4) Maintain responsibility for seating arrangements on the High Holy Days and for the distribution of synagogue 'honors;' and
- 5) Be responsible for the care, upkeep and maintenance of the congregation's religious items of property.

#### ARTICLE 7 – BROTHERHOOD

- 1) The brotherhood shall consist only of male members of the congregation and shall have as its object the advancement of the welfare of the congregation.
- 2) The brotherhood shall elect its own officers. It shall be subject to the overriding authority of the board.

#### ARTICLE 8 – SISTERHOOD

- 1) The sisterhood shall consist only of female members of the congregation and shall have as its object the advancement of the welfare of the congregation.
- 2) The sisterhood shall elect its own officers. It shall be subject to the overriding authority of the board.
- 3) The sisterhood shall be charged with operating the synagogue gift shop.

#### ARTICLE 10 – AMENDMENTS

(Amendment approved June 22, 1982)

1. By-laws of the congregation may be enacted, and the by-laws repealed or amended, by by-law enacted by a majority of the members of the board at a duly constituted meeting of the board and sanctioned by an affirmative vote of at least two-thirds of the members of the congregation at a meeting duly called for the purpose of considering the said by-law.

### **Solel Congregation of Mississauga**

CONSTITUTION AND BY-LAWS (adopted 1974, amended to 1980)

#### PREAMBLE

The object of this congregation shall be to establish and maintain a syn-

agogue, and such educational, religious, social and recreational activities as will help further the cause and objectives of the synagogue and the Jewish community.

## II AFFILIATION

This Congregation shall be affiliated with the Union of American Hebrew Congregations.

## III MEMBERSHIP

1. Any Jew, man or woman, who has reached the age of eighteen (18) years and is of good character, shall be eligible for membership.
2. A person married not in accordance with Jewish law shall consult the Rabbi who shall make recommendations to the Membership Committee.
3. All applicants for membership shall first be approved by the Membership Committee subject to further approval of the application by a majority of the Board of Directors.
4. The unit of membership shall be the individual, or in the case of married people, the family (husband, wife, children under twenty-one (21) years of age), provided that a member of a family already affiliated with the Congregation who is twenty-one (21) years of age or over shall be required to apply for individual membership, full time students excepted.
5. Honourary membership, for a period to be stipulated by the Board of Directors, may be granted by a two-thirds (2/3) majority of the Board of Directors, but such members shall not, without special resolution by the Board of Directors, be entitled to vote at meetings of the Congregation.

## IV PRIVILEGES OF MEMBERSHIP

1. Any member of the Congregation in good standing and only such members shall be entitled to all the rights and privileges of membership including but not limited to those specifically set forth in this by-law, in addition to the following:
  - a) They may attend all meetings of the Congregation.
  - b) They may have a voice and a vote at all general and special meetings of the Congregation, subject to the limitations specified in Article 5 of the Constitution.
  - c) They may participate in divine worship at all religious services

in the synagogue, subject to the rules and regulations which may be established by the Board of Directors.

- d) They may participate in social and educational activities of the Congregation subject to the rules and regulations which may be established by the Board of Directors.
- e) They may enroll their children in the school of the Congregation subject to the rules and regulations which may be established by the Board of Directors.
- f) They may purchase the right to burial in Solel of Mississauga's Cemetery subject to the rules and regulations of the Cemetery Committee as approved by the Board of Directors of Solel Congregation of Mississauga.

## V VOTING

1. All units of membership in good standing, and only such units shall be entitled to vote on each question arising at any special or general meeting of the Congregation. Husbands and wives of a family unit shall each have a separate vote.
3. At all meetings of members, every question shall be decided by a majority vote, unless otherwise required by the Consitution of the Congregation.
4. Every question shall be decided by a show of hands, unless a poll or ballot is demanded by at least twenty (20%) percent of the members present. Upon a show of hands, a declaration by the chairman that a resolution has been carried or has not been carried, and an entry to that effect in the minutes of the Congregation, shall be evidence of the fact and no further proof required.

## VII EXPULSION

1. Any member of the Congregation shall be liable to reprimand, suspension or expulsion for misconduct, provided that the member so charged has been charged in writing by twenty (20%) percent of the members of the Congregation and is accorded a hearing before the Board of Directors.
3. Any decision of such charge shall require a two-thirds (2/3) majority vote of the entire Board of Directors.
4. The expulsion of any member shall not relieve him from the payment of any obligations due the Congregation prior to the date of such expulsion.



### VIII SEATING

1. Seats in synagogue shall be unassigned subject to the right of the Board of Directors to make special provisions for High Holy Days and for members who are incapacitated or for special visitors.
2. Seats shall be made available to non-members during the High Holy Days, as may be determined by the Board of Directors.

### X BOARD OF DIRECTORS

12. Every Director or Officer and his heirs, executors and administrators and estate and effects, respectively, shall from time to time and at all times, be indemnified and saved harmless out of the funds of the Congregation, if he is a member of the Congregation, from and against:
  - a) All costs, charges and expenses whatsoever, which such Director or Officer sustains or incurs, in or about any action, suit or proceeding which is brought, commenced or prosecuted against him, for or in respect of any act, deed, matter or thing whatsoever made, done or permitted by him, in or about the execution of the duties of his office except such costs, charges, or expenses as are occasioned by his own neglect or default unless otherwise decided by the Board of Directors.
  - b) All other costs, charges and expenses which he sustains or incurs, in or about or in relation to the affairs thereof, unless otherwise decided by the Board of Directors.

### XI EXECUTIVE COMMITTEE

1. The Executive Committee, who shall all be members of the Board of Directors, who may otherwise be referred to as the Officers of the Congregation shall be: (a) President; (b) First Vice-President; (c) Second Vice-President; (d) Secretary; (e) Treasurer.
2. The Officers shall be elected for a one-year term.

### XII MEETINGS

8. While the Board of Directors except as limited by this Constitution shall have full power and authority in the conduct of the Congregation's affairs, the members of the Congregation shall have the

final word in these matters. At any regular or special meeting the members, by a majority vote of those present, may overrule any decision made by the Board of Directors or may take action upon matters with respect to which the Board of Directors has failed or refused to act.

### XIII ELECTION PROCEDURES

#### 1. Nominating Committee

A minimum of six (6) weeks prior to the Annual Meeting, the President shall appoint a Nominating Committee consisting of himself, the immediate past President, two other Directors and three members of the Congregation who are not Directors.

2. The functions and responsibilities of the Nominating Committee are as follows:
  - a) Advise the Congregation of the requirements for nomination, and of the procedures for submitting nominations.
  - b) Receive and examine all nominations for all positions, to determine the eligibility of the nominees.
  - c) Determine if the nominees are willing to accept the nominations.
  - d) If no nomination for a position is received, attempt to obtain at least two (2) candidates who will accept that nomination.
  - e) Hold a nomination meeting two weeks prior to the Annual Meeting, to present all candidates nominated, including those nominated during the nomination meeting.
  - f) To be the source of information regarding election procedures, candidates, etc., for all interested members of the Congregation.
8. Only members in good standing can nominate, vote or be elected to office.

### XIV RABBI AND CANTOR

1. The Rabbi and Cantor shall be appointed by the Board of Directors for such salary and such period of time and upon such terms as the Board may determine. In the event that the Board votes to terminate the services of the Rabbi or Cantor, such action will require ratification by one-half of the members of the Congregation present at a meeting called specifically for that purpose.

2. The Rabbi may not attend meetings of the Board of Directors except when requested to be present by the Board of Directors.
3. The Rabbi and Cantor shall perform all duties incumbent upon and in accordance with their office and such other duties and functions as the Board of Directors may from time to time determine. More specifically but without limiting the generality of the foregoing, the Rabbi shall have the overall responsibility of implementing the spiritual objectives of the Congregation: he shall seek the advice and guidance of the Board of Directors or of any special committee or committees which may be set up for this purpose, to determine the views of the Congregation and the most effective way of discharging his duties; and similarly without limiting the generality of the foregoing, the Cantor or in his absence, the Rabbi, shall be responsible for the musical programme and activities of the Congregation and shall be guided in the performance of his duties by the Rabbi and an appropriate committee which may be appointed for this purpose by the Board of Directors.

#### XV STANDING COMMITTEES

1. The President shall appoint the Chairmen of the Standing Committees of the Congregation from the membership of the Board of Directors or from any member in good standing of the Congregation, and the President shall further appoint the members of the Standing Committees on the recommendation of the Committee chairmen.
4. The Standing Committees of the Congregation and their duties shall be as follows:
  - a) BOARD OF EDUCATION. This Board is charged with the responsibility of developing programmes for the Congregation in the following areas: (i) Religious School, (ii) Adult Education, (iii) Hebrew School, (iv) Library.

It shall determine policy and form rules and regulations for administration of such programmes subject to the approval of the Board of Directors. The Rabbi and the Religious School Principal shall be ex-officio members of the Board of Education with no voting privileges.
  - e) MEMBERSHIP COMMITTEE. This Committee shall be charged with the responsibility of keeping in touch with Jewish families in the community, particularly with new families, with the

objective of inviting them to become members of the Congregation. This Committee shall also receive applications for membership, investigate such applications and present them for appropriate action to the Board of Directors. When the occasion arises, this Committee shall also initiate action for the suspension or expulsion of members. Until such time as a separate retention committee is appointed, the Membership Committee will assume the responsibilities of retaining the active affiliation of all members.

- h) **RITUAL COMMITTEE.** This Committee shall be in charge of all religious services of the Congregation including weddings, bar mitzvahs, bat mitzvahs, and shall formulate rules and regulations for all such services, subject to the approval of the Board of Directors. It shall offer to the Rabbi such advice and guidance as he may require regarding the character and mode of the various services. It shall have the responsibility of appointing gabbayim<sup>26</sup> and ushers for the various services and supervising kashruth at all Congregation functions until such time as a Kashruth Committee is formed. The Rabbi shall be an ex-officio member of this committee with no voting privileges.
- i) **SOCIAL ACTION COMMITTEE.** This Committee shall be responsible for studying community problems, and problems concerning the Jewish religion and culture in general, and make recommendations for appropriate action to the Board of Directors.
- j) **SOCIAL AND ATHLETIC COMMITTEE.** This Committee shall be charged with the responsibility of developing a year-round programme of social and athletic activities aimed at furthering fellowship and sociability among members of the congregation. It shall also have the responsibility of arranging for appropriate programmes for the various events which it may sponsor.
- l) **YOUTH ACTIVITIES COMMITTEE.** This Committee shall be charged with the responsibility of developing a programme of youth activities for the Congregation. It shall also determine policy and formulate rules and regulations for the administration of such activities subject to the approval of the Board of Directors. The Rabbi shall be an ex-officio member of this Committee.

- n) CEMETERY COMMITTEE. This Committee shall have the responsibility of arranging for and maintaining burial facilities for the Congregation; aiding members of the Congregation and their families in arranging burial facilities. The Rabbi shall be an ex-officio member of this Committee with no voting privileges.

## XXVI AMENDMENTS

1. During the first year following the adoption of this Constitution, this Constitution may be amended by a majority vote of the members present at any membership meeting.

## XXVII INTERPRETATION

1. In this Constitution and By-laws and in all other By-laws of the Congregation hereinafter passed, unless the context otherwise requires, words importing the singular number or the masculine gender shall include the plural or feminine gender, as the case may be, and vice versa.

## BY-LAWS

(March 11, 1974)

By-Law #1 Motion: That the synagogue keep a Kosher Kitchen and all decisions re this be the Rabbi's decision in conjunction with the Religious Committee.

(April 21, 1980)

Amendment to:

By-Law #3 The Judaica Shop shall be excluded from this By-Law with the exception of Yom Kippur.

## CONSTITUTION AND BY-LAWS (Revised, 1992)

### PREAMBLE

This Congregation shall offer leadership to the Jewish community and

a place and opportunity for worship and studying the morals, principles and history of Judaism. It shall serve as a focus for Jewish religious and social life in the community. It is dedicated to co-operation and harmony among all people and the advancement of Reform Liberal Jewish ideals ... .

## II AFFILIATION

This Congregation shall be affiliated with the Union of American Hebrew Congregations,<sup>27</sup> and shall be guided by its philosophy.

## III MEMBERSHIP

1. Any person of the Jewish faith, eighteen (18) years of age or over, is eligible for membership in the Congregation.
3. The unit of membership shall be the individual or, in the case of married persons, the family (husband, wife, children under eighteen (18) years, full time students). Children of a member, upon reaching the age of eighteen (18) years, shall be invited to become members in their own right.
6. In the case of married persons, where one spouse is not of the Jewish faith, notwithstanding any other provision contained herein, that spouse shall be deemed to be a full member of the Congregation.

## IV PRIVILEGES OF MEMBERSHIP

1. A member in good standing shall be any member whose financial obligations to the Congregation have been fulfilled.
2. Members in good standing shall be entitled to all the rights and privileges of membership including, but not limited to, those specifically set forth in this Constitution:
  - a) They shall have a voice and a vote at all general and special meetings of the Congregation, subject to the limitations specified in Article V of this Constitution.

<sup>27</sup> The federation of Reform synagogues.

- b) They may participate in divine worship at all religious services in the synagogue, subject to the rules and regulations which may be established by the Board of Directors upon the recommendation of the Religious Committee.
  - c) They may participate in all social and educational activities of the Congregation, subject to the rules and regulations which may be established by the Board of Directors.
  - d) They may enroll their children in the school of the Congregation, subject to the rules and regulations which may be established by the Board of Directors upon the recommendation of the Education Committee.
  - e) They shall be eligible to be nominated and elected as a member of the Board of Directors of the Congregation.
  - f) They shall be eligible to be a member of and serve on any Committee of the Congregation.
3. Members in good standing shall purchase the right to burial in the Congregation's Cemetery, subject to the rules and regulations established by the Board of Directors upon the recommendation of the Cemetery Committee.

## IX BOARD OF DIRECTORS

- 1. The affairs of the Congregation shall be managed and directed by the Board of Directors.
- 2. The Board of Directors shall be composed of the following members of the Congregation, each of whom shall have the right to vote at meetings of the Board:
  - a) The Executive Committee of the Congregation;
  - b) Four members of the Congregation, each serving a two-year (2 year) term. Of these, two members shall be elected to the Board of Directors by the Congregation at large at each Annual General Meeting of the Congregation;
  - c) One representative from each of the following: the Religious Committee, the Education Committee, the Solel Sisterhood, the Solel Brotherhood and the Solel Senior Youth Group. Each representative shall be elected annually by the body to be represented. These representatives shall be elected prior to the Annual General Meeting;
  - d) The Past President.

## X EXECUTIVE COMMITTEE

1. The members of the Executive Committee, who shall all be members of the Board of Directors, and may otherwise be referred to as the Officers of the Congregation, shall be: (a) The President; (b) The First Vice-President; (c) The Second Vice-President; (d) The Secretary; (e) The Treasurer.
2. The Officers shall be elected for a one-year (1-year) term, and are eligible to stand for re-election at the conclusion of each term of office.

## XIII RABBI, CANTOR AND DIRECTOR OF EDUCATION

3. The Rabbi shall have the right to attend all meetings of the Board and the Congregation, except when requested for some special reason to be absent, but the Rabbi shall have no right to vote at any such meetings.
4. In the event the Board votes not to continue to retain the Rabbi, such action shall require ratification by a majority of the votes of the members of the Congregation present at a regular or special meeting called for that purpose.

## XIV STANDING COMMITTEES

- a) **EDUCATION COMMITTEE.** This Committee shall have the responsibility of developing and administering programmes for the Congregation in the following areas: (i) Bet Sefer Solel,<sup>28</sup> (ii) Adult Education, (iii) Library. It shall determine policy, and recommend Rules and Regulations for administration of such programmes, subject to approval of the Board, and submit a budget for approval annually. The Rabbi and Director of Education shall be ex-officio members of the Education Committee, with no voting privileges.
- c) **MEMBERSHIP COMMITTEE.** This Committee shall have the responsibility of maintaining contact with Jewish families in the community, particularly with new families, with the objective of inviting them to become members of the Congregation. This Committee shall also receive and approve applications for membership.

<sup>28</sup> Solel school.



- e) RELIGIOUS COMMITTEE. This Committee shall be responsible for studying community problems, and problems concerning the Jewish religion and culture in general. It shall make recommendations for appropriate action to the Board of Directors and shall implement approved programmes.
- i) CEMETERY COMMITTEE. This Committee shall have the responsibility of arranging for and maintaining burial facilities for the Congregation and aiding members of the Congregation and their families in arranging burial facilities. The Rabbi shall be an ex-officio member of this Committee with no voting privileges.

### XXIII AMENDMENTS

Any amendments to this Constitution may be made in the following manner:

- 1. The amendment shall be prepared in writing by its sponsor, shall be seconded, and shall be submitted to the Secretary.
- 2. The Secretary shall include such amendment in the notice of the next meeting of the Board of Directors for approval.
- 3. If approved by the Board of Directors, discussion of and a vote on the amendment shall take place at the next general meeting of the Congregation.
- 4. A written notice of the general meeting at which the proposed amendment shall be voted upon, shall be forwarded to the members of the Congregation at least twelve (12) days in advance of such meeting. Such notice shall state the proposed amendment and the part of the Constitution proposed to be amended.
- 5. A proposed constitutional amendment which is not approved by the Board of Directors, may be brought to the Congregation through the procedure outlined in Article XI, Section 6.
- 6. An affirmative vote of two-thirds (2/3) of the members present at the meeting shall be necessary to adopt an amendment.

### XXVI REGULATIONS

- 1. The Congregation shall keep a Kosher kitchen.
- 2. No business functions involving remuneration for the synagogue shall be conducted on Jewish Holy Days of rest, namely, Shabbat, Rosh Hashanah, Yom Kippur, Sukkot, Simchat Torah, Pesach, and

Shavuot. The Judaica Shop shall be excluded from this regulation with the exception of Yom Kippur.

## **Congregation Emanu-El (Victoria)<sup>29</sup>**

### **CONSTITUTION AND BY-LAWS (Revised May 1993)**

- I. The name of the Congregation shall be:  
'The Emanu-El of Victoria, Vancouver Island.'
- II. The object of the congregation shall be the furtherance of the traditions of our fore-fathers by:
  1. Maintaining a House of Worship and conducting religious services.
  2. Providing instruction for the young.
  3. Maintaining and operating a cemetery for the burial of persons of our faith.
  4. Promoting such cultural, social and youth activities as desired by members of the Congregation.

### **BY-LAWS**

#### **ARTICLE I MEMBERSHIP AND DUES**

Section 1: Any adult dedicated to and following the Jewish faith shall be eligible for consideration for membership upon application to the Board. Upon acceptance for membership, a person or family shall be duly considered as members upon the following conditions:

- a) Single membership applies to one person only and does not include family, parents or any relative living in or outside Victoria.
- b) Family membership includes persons living in the same household, who are financially responsible for one another, being

<sup>29</sup> A Conservative congregation which occupies the oldest building in Canada in continuous use as a synagogue.

either: 1) two or more adults or 2) one or two adults with a child or children.

- c) Where a family membership includes an individual who is not of the Jewish faith, this person shall be a member, and with the exception of voting privileges and eligibility for election to office, the person shall be entitled, within the limits of Jewish Law, to all the privileges of membership.

ALL MATTERS PERTAINING TO JEWISH LAW SHALL BE DETERMINED IN ACCORDANCE WITH THE CONSERVATIVE MOVEMENT.

Section 2: Each 1) single member; and 2) Jewish person who is at least of the legal voting age for B.C., and falls within the definition of family membership in Article 1, Section 1 (b), is a member and entitled to all the privileges of membership and to one vote at any General Meeting of the Congregation.

Section 5: Subject to Article 1, Section 1 (c), a member in good standing after six months continuous membership, may stand for office.

Section 9: Long-time residents of Victoria whose membership has been unsuccessfully solicited shall be considered as suspended or resigned members for the purpose of applying for membership.

Section 10: A member in good standing may be suspended or expelled for conduct prejudicial to the welfare of the congregation. The conditions for such action and appeal from such action are laid down in Article IX Section 1.

ARTICLE II MEETINGS OF THE MEMBERS

Section 6: At any meeting of the Congregation, voting shall be in person by members in good standing. Absentee vote shall be allowed only for constitutional amendments, (as they will have been presented at least thirty days in advance).

Section 7: At the request of any member the vote on any matter must be taken by secret ballot providing the request has the immediate support of four other members.

### ARTICLE III ADMINISTRATION (COMPOSITION, ELECTION, MEETINGS)

Section 1: The affairs of the congregation shall be entrusted to a Board of Directors (herein referred to as the Board) consisting of the following:

- a. elected officers:
  - i. President
  - ii. Vice-President
  - iii. Secretary
  - iv. Treasurer
  - v. Gabai
  - vi. Director of Cemetery
- b. Nine elected Trustees
- c. The Immediate Past President
- d. A member designated by the Chevra - Kadisha<sup>30</sup>
- e. A member designated by the Ladies Auxiliary (Sisterhood)  
Where d and e depend on the existence of these voluntary groups.

### ARTICLE IV DUTIES OF THE BOARD OF DIRECTORS

#### Section 1: PRESIDENT

- a. The president shall preside at all meetings of the Board and membership.
- b. He/she shall call all meetings as specified herein.

#### Section 2: GABAI

- a. The Gabai shall be in charge of the religious services of the congregation and perform such other offices as shall be assigned by the Board.
- b. The Gabai shall be chairman of the Religious Services Committee.

#### Section 3: DIRECTOR OF CEMETERY

The Director of Cemetery shall select at least two other persons to serve with him. The Cemetery Committee shall have the responsibility for the physical upkeep of the cemetery. All funeral services

<sup>30</sup> Burial society.

must be arranged through the Cemetery Committee. [See Article V, Section 15.]

Section 4: APPOINTED OFFICIALS

Appointed officials such as Rabbi, Cantor, Teacher, etc., may be invited to sit ex-officio in meetings and shall be under the supervision of the Board or Committee designated by the Board.

ARTICLE V STANDING COMMITTEES

Section 1: The following standing committees as outlined in Article III Section 2 shall be invoked:

- a. Education
- b. Religious Services
- c. Finance
- d. Membership
- e. House
- f. Cultural
- g. Sick and Visiting
- h. Such other committees as the Board shall from time to time deem feasible.

Section 2: The following voluntary auxiliaries shall have status as indicated previously:

- a. Chevra Kadisha
- b. Ladies Auxiliary (Sisterhood)
- c. Such other groups as shall voluntarily form themselves to assist the affairs of the congregation and the Jewish Community.

Section 3: The chairperson of each committee shall select at least two other members to serve with him/her except that if a Chevra Kadisha exists, an additional two designated members from the Chevra Kadisha shall serve on the Cemetery Committee.

Section 4: EDUCATION COMMITTEE

The Education Committee shall direct matters regarding the Hebrew education of the children; shall select and promote all matters pertaining to the advancement of the education of our children. It shall have at least one member designated by the Ladies Auxiliary (Sisterhood) if applicable.

**Section 5: RELIGIOUS SERVICES COMMITTEE**

The Religious Services Committee shall have jurisdiction over all matters pertaining to religious services for the Congregation in synagogue and cemetery. It shall be represented on any committee involved in Rabbi or Cantor search/selection.

**Section 5 (a): RABBI SEARCH/SELECTION COMMITTEE**

As required, the President shall appoint a Rabbi Search/Selection Committee. It shall work closely with the Religious Services Committee. Resulting recommendations must be approved by the Board, and subsequently approved at a general meeting of the Congregation.

**Section 6: MEMBERSHIP COMMITTEE**

The Membership Committee shall pass on all new applications for membership. It shall visit and solicit all new arrivals in the Jewish Community of Victoria. It shall assign the membership dues and assessments of all members.

**Section 7: CHEVRA KADISHA**

The Chevra Kadisha shall be a voluntary service organization; membership in it shall be open to all members of the community. It shall perform the traditional duties of the Chevra Kadisha and shall be represented on Board and in Committee as previously outlined. It is responsible to the Board.

**Section 8: CEMETERY COMMITTEE**

The Cemetery Committee shall conduct its function in accordance with the following:

- a. Burials shall not be conducted at the cemetery other than in accordance with the Rites and Customs of Conservative Judaism as interpreted by the Committee on Law of the Rabbinical Assembly of America.
- b. Permission for burial in any grave shall be granted only if all indebtedness for membership dues to the Congregation by the member is fully paid; provided, however, that the Cemetery Committee shall have the authority to waive the provisions of this requirement if the members of the Committee are unanimously agreed that it is advisable.
- c. The Cemetery Committee shall charge a non-member's fee to

persons, survivors or their estates for cemetery privileges. A non-member fee charge shall be at the discretion of the Cemetery Committee.

- d. Where a person or persons have been residents of Victoria for a period of more than five years and have been members of the Congregation for a period of less than five years, the Cemetery Committee shall have the authority to make an appropriate assessment for further cemetery fees, in addition to the Perpetual Care fee as set forth in item c. above.

**Section 9: LADIES AUXILIARY (SISTERHOOD)**

The Ladies Auxiliary shall be a voluntary service organization; membership shall be open to all adult women dedicated to and following the Jewish faith. It shall assist the Congregation in all ways that it deems advisable and shall be represented on Board and Committees as previously outlined.

**NOTE:** It shall designate a member of both the House and Education Committees. It is responsible to the Board.

**Section 10: HOSPITALITY AND WELCOMING COMMITTEE**

This Committee is to work closely with the Membership Committee. Its function is particularly important for newcomers. It shall encourage more social gatherings and occasions, and encourage friendship with other members or newcomers. With appropriate support and a good spirit of volunteering, its activities can significantly affect the vitality, vibrancy and friendliness of this Congregation.

**ARTICLE VI NOMINATION AND ELECTION OF THE BOARD OF DIRECTORS**

**Section 1:** These Board members shall be elected at the annual general meeting by secret ballot and shall hold office until the next annual meeting or until their successors are elected or appointed ... .

**Section 2:** Retiring officers shall be eligible for re-election.

**Section 3:** The members may, from time to time, by a two-thirds vote of

the members, increase or decrease the number of elected trustees by ordinary resolution. (No notice need be given).

## ARTICLE VII PRIVILEGES OF MEMBERS

Section 1: Members in good standing are entitled to a seat at all services whenever the synagogue shall be open.

Section 2: Members in good standing are entitled to send their children to the classes and other functions of the educational system of the Congregation.

Section 3: Members in good standing shall be entitled to burial in the cemetery and such services as are normally provided by the Congregation, all in accordance with Article V Section 8.

Section 4: Members in good standing shall be entitled to all the services of officers, officials and other organs of the Congregation as are normally available.

Section 5: Members in good standing shall be entitled to the use of the synagogue for all religious functions such as weddings and bar mitzvahs.

Section 6: Members and the local Jewish organizations to which members customarily belong shall be entitled to the use of the social hall under the conditions laid down by the House Committee and on payment of a nominal fee set out by the House Committee.

## ARTICLE VIII USE OF FACILITIES BY NON-MEMBERS

Section 1: Non-members of external organizations may use the social hall or synagogue under the conditions set by the House and Finance Committees.

Section 2: Non-members may be buried in the cemetery under the conditions set by the Cemetery Committee and the Finance Committee.

Section 3: Non-members may attend High Holiday services by application to the Finance Committee.



## ARTICLE IX EXPULSION AND SUSPENSION

Section 1: A member in good standing may be expelled or suspended for conduct prejudicial to the welfare of the Congregation upon a written complaint by three members to the Board. The Membership Committee shall investigate and report back to the Board within ten days of receipt of the complaint. The Board shall then decide by simple majority whether to suspend or expel the said member, and shall so notify him or her in writing. The said member may appeal to the Congregation by writing to the Board within thirty days of receipt of his or her notice. A special meeting of the Congregation shall be called on this matter at which time the Congregation may sustain, modify or expunge the said decision by a simple majority vote.

## ARTICLE X GENERAL PROCEDURE

Section 1: In matters of major religious or financial import, a two-thirds majority of those voting at a general meeting shall be necessary to approve the proposal. Cases that are not provided for herein shall be determined by the majority vote at a general meeting. [Ratified June 8/1969. Reaffirmed May 9/1982].

Section 2: These By-Laws may be altered or amended by extraordinary resolution at a special or annual general meeting provided thirty days written notice is given of the proposed amendment; the proposer's name to be included. Two-thirds majority of those voting shall be necessary to pass a constitutional amendment.

## **Congregation Dorshei Emet – The Reconstructionist Synagogue of Montreal**

BY-LAWS (1994)

### ARTICLE 1 OBJECTIVES

The objectives of the Congregation shall be:  
to maintain a house of worship;

- to foster and develop the spiritual, educational and social welfare of its members;
- to maintain a cemetery;
- to maintain membership in the Federation of Reconstructionist Congregations and Havurot or any successor thereto; and
- to proclaim and uphold the principles of Reconstructionist Judaism.

## ARTICLE 2 MEMBERSHIP

### Section 1 MEMBERSHIP

- a) Subject to ARTICLE 2, Section 1 b), any person of the Jewish faith who undertakes to abide by the Constitution and BY-LAWS of the Congregation shall be eligible to become a member thereof. Application for membership shall be made in writing and be accompanied by payment of, or the arrangement for the payment of, membership dues for one year. A non-Jewish spouse of a member may be welcomed into the synagogue with the status of a Ger Toshav (a 'non-Jewish sojourner'), but shall not be entitled to membership in the Congregation.
- b) A person shall not be eligible for membership if he/she has refused to grant his/her spouse a get (a Jewish divorce) should their marriage be dissolved by civil decree.

### Section 2 CATEGORIES OF MEMBERSHIP

- a) FAMILY MEMBERSHIP shall be available to families at least one of the members of which is over the age of thirty years and shall include the parents and all dependent children.
- b) INDIVIDUAL MEMBERSHIP shall be available to an unmarried individual at least twenty-five years of age.
- c) YOUNG ADULT MEMBERSHIP shall be available to families no member of which is over the age of thirty years, and shall include the parents and children, and to unmarried individuals under the age of thirty years.
- d) ASSOCIATE MEMBERSHIP shall be available to individuals or families, who may participate in the religious and educational activities of the Congregation, subject only to the limitations set out in ARTICLE 4.
- e) FAMILY (SPECIAL) MEMBERSHIP shall be available to single-parent families and families that are retired on fixed incomes.

- f) SINGLE SENIOR MEMBERSHIP shall be available to an unmarried person who is retired on a fixed income.
- g) STUDENT MEMBERSHIP shall be available to full-time students.
- h) OUT-OF-TOWN MEMBERSHIP shall be available to persons who were previously members but have moved from the Montreal area.

### Section 3 MEMBERSHIP PRIVILEGES

Members in good standing shall be entitled to the following rights and privileges:

- a) to attend all synagogue services and functions;
- b) to rent, when available, the facilities of the Congregation for B'nei Mitzvah celebrations, weddings and other similar occasions. The rental shall be subject to the rules and regulations established from time to time by the Board.
- c) to be affiliated with any constituent group of the Congregation upon payment of any fee that may be levied by such group; and
- d) to purchase rights to burial plots upon such terms and conditions as may be established from time to time by the Board on the recommendation of the Cemetery Committee.

The right to a burial plot shall be conditional upon membership in the Congregation. That right may not be transferred or assigned in whole or in part. Should a member leave the Congregation, the right shall revert to the Congregation and the member shall receive reimbursement, less reasonable administrative charges, of moneys paid in that regard.

Permission for burial shall be granted only if all indebtedness of the deceased to the Congregation has been paid, subject, however, to special consideration by the President or the Rabbi, or both.

### Section 7 SUSPENSIONS

Any member who is more than twelve months in arrears in dues or in any other sums due to the Congregation, or whose actions or conduct constitute just cause in the opinion of the Board, may be suspended or expelled by the Board. Prior to any suspension or expulsion taking effect, the member shall be notified by registered letter to be present at a meeting of the Board and be given an

opportunity to show cause why the member should not be suspended or expelled.

## ARTICLE 6 BOARD OF DIRECTORS

### Section 2 ELIGIBILITY

Any person who has been a member in good standing of the Congregation for at least one year shall be eligible for election to the Board. All past presidents and honorary Officers appointed by the Board shall be ex-officio members of the Board without voting privileges.

### Section 4 POWERS OF THE BOARD

The Board shall

- d) consider and, if thought fit, approve all applications for membership in the Congregation; and
- e) establish the annual membership dues of the Congregation, subject to ratification by the Congregation at a Special or Annual General Meeting.

### Section 7 VOTING

Each Director present shall have one vote at all meetings of the Board. A majority of votes cast thereon shall carry any resolution unless a special majority is provided for in these By-Laws or by law.

### Section 8 QUORUM

A majority of the number of elected members of the Board shall constitute a quorum for the transaction of business at a Board meeting.

### Section 9 VACANCIES

In the event of a vacancy on the Board, however caused, the President may appoint one of the eligible members of the Congregation to fill the vacancy for the balance of the unexpired term.

## ARTICLE 7 OFFICERS

### Section 1 ELIGIBILITY

Any member who has served at least one full year on the Board shall be eligible for election as President, Vice-President, Secretary

or Treasurer of the Congregation. Any person who has been a member in good standing of the Congregation for at least one year shall be eligible for election as Parnass or Associate Parnass.

**Section 2 TERM OF OFFICE**

The term of an Officer shall be two years, but the Officer may be re-elected to that office for a subsequent term or terms.

**Section 3 POWERS AND DUTIES OF OFFICERS**

e) The PARNASS shall, in the absence of the Rabbi, supervise all religious services of the Congregation and shall perform the customary duties of that office, distribute the Honours and be in charge of the Sifrei Torah,<sup>31</sup> Tallitot,<sup>32</sup> Prayer Books and other religious articles. The Parnass shall keep or cause to be kept a B'nei Mitzvah<sup>33</sup> Register and shall record therein all B'nei Mitzvah. The Parnass shall notify appropriate parties of the anniversary dates of all B'nei Mitzvah. The Parnass shall keep or cause to be kept records of the Yahrzeit<sup>34</sup> date of the deceased members and of relatives of members and shall notify those members concerned prior to the respective Yahrzeit dates.

**ARTICLE 8 EXECUTIVE COMMITTEE**

**Section 1 COMPOSITION**

The Executive Committee shall comprise all the Officers of the Congregation, the Immediate Past President and the Rabbi or Rabbis.

**Section 2 POWERS OF THE EXECUTIVE COMMITTEE**

The Executive Committee shall administer the continuing activities of the Congregation in accordance with the policies and principles established by the Board, and shall report on its proceedings at each regular meeting of the Board.

**Section 5 VOTING**

A majority of the votes cast on any matter shall resolve that matter.

31 Torah scrolls.

32 Prayer shawls.

33 Plural of bar-mitzvah.

34 Anniversary of death.

## ARTICLE 9 RELIGIOUS OFFICIALS AND THEIR DUTIES

### Section 1 RABBI AND OTHER RELIGIOUS OFFICIALS

A Rabbi or Rabbis shall be the principal religious officials of the Congregation. Other religious officials may be engaged as required by the Executive Committee, subject to the approval of the Board.

### Section 2 DUTIES IN CONGREGATION

No religious official engaged by the Congregation shall perform any of the functions of his or her office outside the Congregation without the consent of the Executive Committee.

### Section 3 CONTRACTS

The Executive Committee may conclude contracts with the religious officials upon such terms and conditions as shall be agreed upon, subject to the approval of the Board. The President, with the assistance of the First Vice-President, the Treasurer or the Secretary, as the President may determine, shall negotiate and conclude the salary and benefits to be provided to the Rabbi or Rabbis, which the congregation will attempt to be in substantial conformity with the Federation of Reconstructionist Congregations and Havurot 'Guidelines on Rabbinic-Congregational Relations.'

### Section 4 DUTIES OF THE RABBI

The Rabbi, as the spiritual head of the Congregation, shall perform all religious services and duties associated with that office, together with any other duties that may be required by law.

## ARTICLE 11 COMMITTEES

### Section 5 STANDING COMMITTEES

#### g) YOUTH COMMITTEE

The Youth Committee, in co-operation with the Rabbi, shall be responsible for youth clubs and other religious, cultural and social activities which may be organized for the youth of the congregation.

#### h) CONSTITUTION AND BY-LAWS COMMITTEE

The Constitution and By-laws Committee shall periodically review the Constitution and By-laws and shall recommend amendments for the consideration and decision of the Board.

i) MINHAG COMMITTEE<sup>35</sup>

The Minhag Committee, in conjunction with the Rabbi, shall be responsible for the review and recommendation of ritual practices in the Synagogue, for the consideration of the Board.

## ARTICLE 12 NOMINATIONS

### Section 3 SLATE

The Nominating Committee shall nominate members for election to the Board and shall recommend a slate of Officers to the Congregation. It shall file its report with the Secretary, who shall then cause the report to be published at least thirty days prior to the Annual General Meeting, together with the notice of that meeting.

### Section 4 NOMINATIONS

Any eligible member may be nominated for election to the Board or as an Officer by submitting his or her name in writing to the Chair of the Nominating Committee, not less than fifteen days prior to the date of the Annual General Meeting. Nominations must be signed by at least five members in good standing and be accepted by the nominee.

If there is more than one candidate for any position, the Secretary shall send a list of all the candidates to the members at least ten days prior to the Annual General Meeting, together with advice as to the election procedures.

## ARTICLE 13 ANNUAL GENERAL MEETINGS

### Section 4 VOTING

Each member in good standing present at the meeting shall have one vote at the Annual General Meeting. In the instance of family membership, each spouse in the family present at the meeting shall have one vote. Unless otherwise expressly provided, a majority of the votes cast on any matter shall carry that matter.

### Section 5 ORDER OF BUSINESS

The order of business at an Annual General Meeting shall be as follows:

- a) reading of minutes;

35 Rites Committee.

- b) presentation of all annual reports and financial statements;
- c) election of Officers and Directors;
- d) appointment of auditors;
- e) presentation of reports and financial statements from groups within the Congregation; and
- f) such other business as may properly come before the meeting.

## ARTICLE 16 AMENDMENTS

These By-laws may be enacted, amended or repealed in the following manner:

- a) A resolution approved by at least two-thirds of the members of the Board shall be submitted by the Board to the Congregation for approval at a Special General Meeting or at the Annual General Meeting.
- b) A proposal signed by at least ten members in good standing may be submitted to the President for consideration by the Board at its next meeting following receipt of the proposal. If the Board does not approve the proposed change, a Special General Meeting may be called at the written request of at least twenty-five members to consider the proposal.
- c) Notice of a proposed change in the By-laws, including a copy of the proposed change, shall be sent to the members at least thirty days prior to a Special or Annual General Meeting.
- d) No change in the By-laws shall be effected unless approved by at least two-thirds of the votes cast thereon at an Annual General Meeting or a Special General Meeting.

## ARTICLE 18 AFFILIATION

The congregation may associate itself with other organizations having similar aims and objectives. It may also aid, subvent or cooperate in any cause which has for its purpose the promotion or protection of the interests of Reconstructionist Judaism and the Jewish people.



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# Contributors

MICHAEL BROWN is professor of Humanities and Hebrew at York University where he directed the Centre for Jewish Studies from 1995 to 2001. His most recent book, *Jews and Judaism in Canada: A Bibliography of Works Published Since 1965* (1999-2000), was written and compiled in collaboration with Richard Menkis, Benjamin Schlesinger, and Stuart Schoenfeld.

JAY M. EIDELMAN is Museum Historian at the Museum of Jewish Heritage – A Living Memorial to the Holocaust in New York City. Among the exhibitions he has curated are: “France Divided: Impassioned Responses to the Dreyfus Scandal” and “Yiddish on Stage: Posters and Artifacts from the World of Yiddish Theatre” (with Ellen Smith). He has taught at Hobart and William Smith College.

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IRA ROBINSON is professor of Judaic Studies at Concordia University in Montreal. He is a former president of the Association for Canadian Jewish Studies and has written extensively about Canadian Jewry, including the book, *Renewing Our Days: Montreal Jews in the Twentieth Century* (1995), written with Mervin Butovsky.

LORRAINE E. WEINRIB is a professor of Law and Political Science at the University of Toronto. She has taught and published in the United States, Israel, and South Africa. Her interests include Canadian constitutional law and politics, as well as the protection of human rights at the national and international levels in the aftermath of the Holocaust.