
The Jewish Immigrant Experience and the Practice of Law in Montreal, 1830 to 1990

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There exists inadequate research analysing both the history of racial and ethnic minority group participation in the legal profession within Canada, and racial and minority group influence on the development of the Canadian legal profession. This note examines the experiences of the Jewish legal community in Montreal from 1830 to 1990 using both historical data and oral testimony to analyse the character of legal practice for Jewish lawyers.

The historical struggles and challenges that Jewish lawyers faced in their attempts to enter and practice law in Montreal reflect similar struggles that other members of their community encountered. The discrimination that Jewish lawyers encountered strengthened their relationship with their ethnic community. This relationship became one of mutual need: Jewish lawyers survived on the basis of connections and relations with Jewish clients and the Jewish community needed the expertise of lawyers to further the development of community interests. The note also demonstrates how the effects of these interdependent relationships influenced the development of the legal profession in general.

Also considered are the effects on the practice of law of diminishing discrimination against Jews in Montreal after World War II. Opportunities for Jewish lawyers to expand their practices outside their community became possible beginning in the late 1960s and early 1970s, ultimately resulting in a considerable increase in the number of Jewish lawyers employed in large Canadian law firms.

Il existe une recherche inadéquate qui analyse à la fois l'histoire de la participation de minorités ethniques et raciales dans la profession juridique au Canada et l'influence de ces groupes sur le développement de la profession juridique canadienne. Cette note examine les expériences de la communauté juridique juive de Montréal de 1830 à 1990, utilisant à la fois des données historiques ainsi que des témoignages oraux pour analyser le caractère de la pratique du droit parmi les avocats juifs.

Cette note décrit les défis qu'ont connus les avocats juifs en pénétrant la profession juridique. La discrimination qu'ont connue les avocats juifs a renforcé leurs relations avec leur communauté ethnique. Les avocats juifs survivaient grâce à leurs clients juifs, et la communauté juive nécessitait l'expertise d'avocats afin de poursuivre le développement de ses intérêts communautaires. Cette note examine l'influence des relations interdépendantes entre les avocats juifs et leur communauté ethnique sur la pratique du droit chez les avocats juifs de Montréal et sur le développement de la communauté juive. Cette note démontre aussi comment les effets de ces relations interdépendantes ont influencé le développement de la profession juridique en général.

Cette note décrit aussi l'effet de la baisse de discrimination envers les juifs de Montréal à la suite de la Seconde Guerre Mondiale. L'occasion pour les avocats juifs de répandre leur pratique en dehors de leur communauté ethnique est devenue possible dès la fin des années 60 et au début des années 70, ce qui a résulté en une considérable croissance du nombre d'avocats juifs employés dans les grands cabinets canadiens.

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Introduction

When examining literature on the history of the legal profession in Canada, one theme dominates in particular: it is a history of white, male elites—most often of Anglo-Saxon Protestant origin, and in Québec, French-Catholic.¹ The paucity of literature reflecting the experiences of other ethnic minorities in the profession might create the misperception that ethnic minorities did not enter the profession until the post-war economic boom which coincided with the increased arrival of non-white and non-English-speaking immigrants.² Alternatively, some believe that diversification in the profession was simply a result of governmental multiculturalism policies.

There has recently been a proliferation of work on the experiences of “that other visible minority” in the profession, *i.e.*, women.³ However, with regard to racial and ethnic minorities in the legal profession, there has yet to be a definitive history detailing the experiences of non-white, non-Anglo-Celtic, non-Francophone, or even non-Christian lawyers in Canada, akin to Jerold Auerbach’s work on discrimination in the American Bar, *Unequal Justice*.⁴ This is not to suggest that there could be, or need be, a singular work that addresses all of these experiences, given the ethnic and cultural diversity prevalent among current members of the profession, not to mention the geographic distinctiveness of the various Canadian bars. The existing body of literature, however, fails to acknowledge the vital contribution of certain ethnic minorities to the development of the legal profession—and, by extension, the law—in Canada.

One of the more prevalent themes concerning the development of the legal profession is the relationship between the practice of law and the evolution of nationhood. For instance, G. Blaine Baker considers the Law Society of Upper Canada’s role as educator of nineteenth-century elites and future statesmen.⁵ The theme of na-

¹ One notable exception is P. Sworden, “‘A Small United Nations’: The Hamilton Firm of Millar, Alexander, Tokiwa and Isaacs, 1962-1993” in C. Wilton, ed., *Essays in the History of Canadian Law, Inside the Law: Canadian Law Firms in Historical Perspective*, vol. 7 (Toronto: University of Toronto Press, 1996) [hereinafter *Canadian Law Firms in Historical Perspective*] 469. Sworden’s article addresses the theme of racial and ethnic under-representation within the “mainstream” of the profession, and illustrates how lawyers of diverse ethnic and racial backgrounds could find success in the profession through alternatives to large, corporate mega-firms.

² In his introduction, Sworden, *ibid.*, briefly describes the experiences of black Ontario lawyers at the turn of the century, and the discrimination in British Columbia against admitting Chinese-Canadians to the Bar (although the latter information is drawn from sources related to their absence from the Voters’ List).

³ See generally Sworden, *supra* note 1.

⁴ (New York: Oxford University Press, 1976).

⁵ See G.B. Baker, “Legal Education in Upper Canada, 1785 to 1889: The Law Society as Educator” in D.H. Flaherty, ed., *Essays in the History of Canadian Law*, vol. 2 (Toronto: University of Toronto Press, 1983) 49 at 55 [hereinafter “Legal Education in Upper Canada”] where Baker describes how in 1826, Bishop John Strachan wrote:

tion-building is also prevalent in other works contemporary to this period, such as Brian Young's study of George-Etienne Cartier.⁶ Young illustrates how Cartier's links to socially and politically powerful French-Catholic and Anglo-Protestant families of Montreal allowed him to develop a thriving legal practice and further his own political aspirations. J.K. Johnson's work on Sir John A. Macdonald illustrates parallel developments in Kingston, Ontario.⁷

Other works on the development of the legal profession are illustrative of commercial developments in Canada and their relationship to the practice of law.⁸ In Lower Canada, as in Upper Canada, the practice of law had become a family affair, with many members of the profession emanating from a few established legal dynasties. The ranks of the legal elite became predominantly swelled with men of English or Scottish backgrounds who were intimately connected to the commercial and social elites of the day. A review of the "biographies" of many of the prominent law firms that emerged at the end of the nineteenth century illustrates that these dynastic networks severely limited opportunities of admission into the profession for those who were not of their ranks.⁹ What these works illustrate is that until well after the second

[I]n a country like this [the legal profession] must be the repository of the highest talents. Lawyers must, from the very nature of our political institutions—from there being no great landed proprietors—no privileged orders—become the most powerful profession, and must in time possess more influence and authority than any other.

The ideal lawyer described by Strachan and his contemporaries was to have been a "most worthy, intelligent, loyal, and opulent inhabitant [,] ... and [a] gentlemen' of high character, of large property, and of superior information." See also G.B. Baker, "The Juvenile Advocate Society, 1821 to 1826: Self-Proclaimed Schoolroom for Upper Canada's Governing Class" [1985] *Hist. Papers: Can. Hist. Ass'n* 74 at 77, 81.

Writing about American lawyers, Alexis de Tocqueville expressed similar views: "If I were asked where I place the American aristocracy, I should reply without hesitation ... that it occupies the judicial bench and bar" (A. de Tocqueville, *Democracy in America*, 3d ed., trans. Henry Reeve (London, 1838) at 2, cited by Auerbach, *supra* note 4 at 14).

⁶ B. Young, "Dimensions of a Law Practice: Brokerage and Ideology in the Career of George-Etienne Cartier" in *Canadian Law Firms in Historical Perspective*, *supra* note 1, 92.

⁷ J.K. Johnson, "John A. Macdonald and the Kingston Business Community" in G. Tulchinsky, ed., *To Preserve and Defend: Essays on Kingston in the Nineteenth Century* (Montreal & Kingston: McGill-Queen's University Press, 1976) 141.

⁸ See G.B. Baker, "Law Practice and Statecraft in Mid-Nineteenth Century Montreal: The Torrance-Morris Firm, 1848 to 1868" in C. Wilton, ed., *Essays in the History of Canadian Law, Beyond the Law: Lawyers and Business in Canada 1830-1930*, vol. 4 (Toronto: Osgoode Society, 1990) [hereinafter *Lawyers and Business in Canada*] 45. See also D. Hamill, "The Campbell, Meredith Firm of Montreal: A Case-Study of the Role of Canadian Business Lawyers, 1895-1913" in *Canadian Law Firms in Historical Perspective*, *supra* note 1, 122.

For a general overview, see M. Bliss, *Northern Enterprise: Five Centuries of Canadian Business* (Toronto: McClelland and Stewart, 1987); and G. Tulchinsky, *The River Barons: Montreal Businessmen and the Growth of Industry and Transportation, 1837-53* (Toronto: University of Toronto Press, 1977).

⁹ Of particular note for the history of the Montreal legal community are D. Mitchell & J. Slinn, *The History of McMaster Meighen* (Montreal: McMaster Meighen, 1989); and D.H. Tees, *Chronicles of*

World War, a lawyer essentially was *the firm*, and a firm's growth and evolution depended entirely on the associations of its practitioners.¹⁰

With the wave of non-English-speaking immigrants that began at the end of the nineteenth century, Canada's justice system faced new challenges. An ethnically diverse profession was important in ensuring that there was a public perception—and eventually the reality—that all citizens had equal access to Canadian justice. One group that had a significant impact on the development of the legal profession was the Jewish community, particularly that of Montreal. Not only did these lawyers face discrimination from the powerful Anglophone elite, but they encountered prejudice from their Francophone colleagues as well, many of whom lived and worked alongside members of the Jewish community. Despite the discrimination they faced, these pioneers—who were among the first distinct non-Anglophone, non-Francophone ethnic community to have a significant representation within the legal profession—not only achieved immense success as lawyers, but also created opportunities in the profession for members of other under-represented groups, such as women and other ethnic minorities.

This note purports to examine the experiences of Jewish lawyers in the context of their relationship with their own community, and with the dominant groups within the legal profession. It will also consider how these experiences shaped the legal practices of Jewish lawyers and, ultimately, how the contributions of Jewish lawyers to the practice of law affected both the development of the legal profession and the Jewish community.

I. Ethnic Lawyers and Legal Elites

Throughout the nineteenth and early twentieth centuries, one of the salient characteristics of the legal profession was ethnic homogeneity. Writing about the American Bar, Auerbach maintains that Anglo-Saxon Protestant lawyers not only shared the legal heritage of the common law, but they also shared a “common national cultural experience” which served to unite members of the legal profession regardless of their economic situation or social standing.¹¹ Therefore, whether a “country solicitor” or “city barrister”, membership in the legal profession bestowed society's recognition upon an individual and ensured that he belonged not only to a professional fraternity, but to a fraternity with a homogeneous ethnic identity.

The idea of a common cultural experience for lawyers was weakened by the industrialization, urbanization, and immigration of the late nineteenth century. With the large influx of immigrants from Southern and Eastern Europe, the homogeneous character of North American society was radically altered. As members of these eth-

Ogilvy Renault 1879-1979 (Montreal: Ogilvy, Montgomery, Renault, Clarke, Kirkpatrick, Hannon, and Howard, 1979).

¹⁰ C. Wilton, “Introduction: Inside the Law—Canadian Law Firms in Historical Perspective” in *Canadian Law Firms in Historical Perspective*, *supra* note 1, 3 at 8-10 [hereinafter “Inside the Law”].

¹¹ *Supra* note 4 at 19.

nic groups began to seek admission to the legal profession, it became apparent that there could no longer be a “common national cultural experience” for lawyers.¹² Thus, the profession responded by closing its ranks, and it became difficult for the members of ethnic communities to acquire admission to the legal profession.

The influx of these new ethnic groups was contemporaneous with the development of corporate law firms. As the business enterprises of corporate clients grew, the demand for corporate lawyers increased. However, rather than grant opportunities to members of new ethnic communities who were seeking to advance themselves in the legal profession, corporate firms responded by continuing to hire candidates from an exclusive group of elite families:

The emergence and proliferation of corporation law firms at the turn of the century provided those lawyers who possessed appropriate social, religious, and ethnic credentials with an opportunity to secure personal power and to shape the future of their profession. ... Only lawyers who possessed “considerable *social capital*” could inhabit the corporate law firm world. [As descendants of] families of British lineage, they ... followed their fathers into business and professional careers. They molded the law firm to resemble the corporation; both restricted access to those who presented proper ethnic and social credentials.¹³

In the early twentieth century, corporate law firms were becoming the “pinnacle” of success for the legal profession—due in part to their close association with large, commercially successful enterprises and their monopoly of wealthy clients. Although the vast majority of law firms would remain “a cottage industry of sole practitioners,” corporate firms nonetheless had a profound effect on the size, structure, and style of legal practice—as well as on the recruitment patterns of law firms.¹⁴

In the United States, the response to the hiring dilemma in the corporate law “factories” had been to seek excellent candidates from among the top university law schools in the country.¹⁵ The underlying assumption was that the best graduates would be attracted to these firms, and that this hiring system would create a meritocracy within the profession.

¹² *Ibid.* at 20.

¹³ *Ibid.* at 21-22 [emphasis in original].

¹⁴ *Ibid.* at 22.

¹⁵ *Ibid.* at 24. Auerbach wrote:

No longer did friendship with a client or a partner automatically qualify a lawyer for firm membership. New recruits followed a carefully prescribed path: college (perhaps Phi Beta Kappa); Harvard, Yale, or Columbia law school; preferably a law review editorship. In addition to academic credentials they were expected to possess “warmth and force of personality” and “physical stamina”.

This trend was not mirrored by Canadian law firms for several reasons. First, the education of lawyers was not consistent across the provinces.¹⁶ Second, the legal community and its social network were vastly smaller than those of the north-eastern American states, and the patronage links were harder to break. For example, at the Campbell, Meredith firm, candidates other than relatives of partners and clients were occasionally recruited from among the gold medalists at McGill University's Faculty of Law. While this represented a slight enlargement of the hiring pool, this was only a modest step toward fully meritocratic hiring practices. Family connections still continued to outweigh considerations of academic credentials in the selection of the firm's lawyers.¹⁷ Thus, the hiring practices of the larger firms—such as Campbell, Meredith and Brown, Montgomery and McMichael—consolidated enclaves of the Anglo elite within the corporate element of Montreal's legal profession.

Although the corporate law firms were over-representative of Anglo-Protestant Montrealers, they were under-representative of the demographic changes that were occurring during the same period. Despite the excellent qualifications of many candidates, they nonetheless found themselves excluded from opportunities in "mainstream" corporate practice because of the persistence of traditional hiring patterns:

Despite the significant developments faced by corporate law firms during the inter-war years, there was a remarkable degree of continuity in the culture of the large firms. This was true in relation to firm governance, hiring practices, and the use of technology. ... Personal contacts remained the basis of recruitment, and the vast majority of those hired were White males.¹⁸

The Law Societies' requirement that candidates clerk in the office of one of its members for a period of at least three years served to limit opportunities for many candidates. As a result, a large number of ethnic-minority students were excluded because they did not have the connections required to obtain clerkship positions. Therefore, they began to rely upon connections within their own communities. The experience of lawyers in the Montreal Jewish community provides an example of how one ethnic community responded to discrimination in the legal profession.

II. The Montreal Jewish Community: Important Themes

An analysis of the Montreal Jewish community's literature reveals several themes that assist in contextualizing the experiences of Montreal Jewish lawyers.¹⁹ One of the primary themes is the impact on the existing Jewish community of substantially in-

¹⁶ The Law Society of Upper Canada remained the exclusive educator of Ontario lawyers until well after World War II. In Quebec, McGill's Faculty of Law continued to be the primary legal educator for elite Anglophone lawyers. See generally "Legal Education in Upper Canada", *supra* note 5.

¹⁷ "Inside the Law", *supra* note 10 at 15.

¹⁸ *Ibid.* at 23-24.

¹⁹ See J.D. Sarna, "Jewish immigration to North America: The Canadian Experience (1870-1900)" [1976] *Jewish J. Socio.* 18 at 31-41. See also M.L. Smith, *Jews of Montreal and their Judaism: A Voyage of Discovery* (Montreal: Aaron Communications, 1998).

creased immigration by Eastern European Jews to Montreal in the late nineteenth and early twentieth centuries. Another theme is the Jewish community's relationship with the Francophone and Anglophone communities in Quebec. It is equally important to consider the effects of anti-Semitism on the Jewish community. Together these three themes provide the necessary context for our analysis of the experiences of Montreal Jewish lawyers.

A. *Immigration in the Late 1800s*

In the 1880s, a wave of immigration known as The "Great Yiddish Migration" began and continued until the early 1920s. Hoping to escape a devastating cycle of political persecution and poverty, thousands of Eastern European Jews began to flee their homelands and set their destinations for the entry ports of North America. The numbers immigrating to Montreal were significant enough to result in a "demographic revolution" in Montreal.²⁰ Robinson and Butovsky wrote that this influx of Eastern European Jewish immigrants into the existing Jewish community of Montreal "succeeded in transforming a relatively small, largely [acculturated] community into one of the most prominent Jewish Communities in the North American diaspora."²¹

This large number of immigrants differed from the older, established Jewish community which had consisted primarily of Western Europeans who were acculturated, and formed a prominent part of the financial and political spheres of Quebec. In contrast, the newer arrivals consisted of Jews from a multitude of Eastern European countries, speaking a variety of languages—none of which was English or French—thus making integration difficult. Furthermore, they were poor, and this placed a great strain on the existing Jewish social assistance institutions. One essential distinction is that, unlike the older community, this new group defined itself not simply as co-religionists, but as a distinct *people*.²²

The new immigrants placed an overwhelming demand upon the existing Jewish community resources. To maintain and establish Jewish community services, knowledge of the political and legal framework was required. As a result, the training and experience possessed by lawyers proved to be vital. Belkin describes how Jewish lawyers became actively involved in advancing the interests of Jewish immigrants

²⁰ I. Robinson & M. Butovsky, "Introduction" in I. Robinson & M. Butovsky, eds., *Renewing Our Days: Montreal Jews in the Twentieth Century* (Montreal: Véhicule Press, 1995) 9 at 13.

²¹ *Ibid.*

²² G. Tulchinsky, *Taking Root: The Origins of the Canadian Jewish Community* (Toronto: Lester Publishing, 1992) at 42 [hereinafter *Taking Root*]:

[T]hey defined themselves primarily as an ethnic group and included among their numbers some Jews who were professed atheists and many more for whom the Judaic religious institutions served only, or mainly, to legitimate their ethnic distinctiveness in the eyes of the host society.

through community agencies.²³ An additional advantage was that lawyers were more likely to speak both French and English, which made them ideal candidates to assume leadership positions within the community and to represent its interests to Montreal's dominant cultural groups.²⁴

B. Strained Relations with Francophone and Anglophone Communities

The development of the Jewish community's role in Quebec society can be viewed from the perspective of its relationship with each of the two dominant religious and linguistic groups in Quebec.²⁵ Jews were considered by French-Quebecers to be outsiders because of the connection between the Jewish and English communities in matters of language, schooling, and commerce.²⁶ Thus, the anti-Semitic sentiment of the French community increased in proportion to the number of Eastern European Jews that arrived during the period of the Great Yiddish Migration.²⁷ Scholars have identified that additional sources of this anti-Semitism were the competing social and economic interests within the small urban neighbourhoods shared by the two groups.²⁸

²³ See S. Belkin, *Through Narrow Gates, A Review of Jewish Immigration, Colonization and Immigrant Aid Work in Canada (1840-1940)* (Montreal: Eagle Publishing, 1966).

²⁴ Interview with Alan Gold at the offices of Goodman, Phillips & Vineberg, Montreal (11 November 1997). Irwin Cotler noted that Jews had the highest level of bilingualism among non-Francophones and Jewish lawyers had the highest rate of bilingualism among Jews. According to Cotler, Jewish lawyers became established as intermediaries between the Jewish community and the non-Jewish Francophone community (interview with Irwin Cotler, McGill University, Montreal (25 April 1998)).

²⁵ J. Jewab, "The Politics of Dialogue: Rapprochement Efforts between Jews and French Canadians, 1939-1960" in Robinson & Butovsky, *supra* note 20, 42 at 44:

As Quebec's education and charitable systems were divided along confessional and linguistic lines, social interaction between French Catholics, Anglo-Protestants and Jews was somewhat more infrequent in Montreal than elsewhere in North America. As the other groups created their own hospitals, golf clubs and summer camps, so too did the Montreal Jewish community. With the relative failure of either the Anglo-Protestants or French Canadians to display what has been described as "an attitude of receptivity" some suggested that the Montreal Jewish community constituted a "third solitude". Yet others have referred to the Montreal Jewish community as a "world between".

A more exhaustive study of the relationship between the Jews and French Canadians is found in J. Langlais & D. Rome, *Jews & French Quebecers: Two Hundred Years of Shared History*, trans. B. Young (Waterloo: Wilfrid Laurier University Press, 1991).

²⁶ See generally W.M. Harold & M. Weinfeld, "The Jews of Quebec and 'Le Fait Français'" in M. Weinfeld, W. Shaffir & I. Cotler, eds., *The Canadian Jewish Mosaic* (Rexdale: John Wiley & Sons Canada, 1981) [hereinafter *Mosaic*] 415 at 418.

²⁷ See generally Langlais & Rome, *supra* note 25.

²⁸ Robinson & Butovsky, *supra* note 20 at 17: "Their immediate neighbours in the working-class slums and ghettos were the French Canadian poor. In many cases the French-Canadian working-class was hostile to the intrusion of 'foreigners' in their districts and expressed their animosity in violent altercations."

In addition, the perceived need to protect the homogeneous character of French religious and cultural institutions against the growing Jewish population increased anti-Semitic attitudes and behaviour.²⁹ In light of their experiences with French-Quebecers, the Jewish community regarded the less hostile anti-Semitic attitudes of the Anglophone community as more tolerable. The Jewish community therefore sought integration with the Anglophones, thereby even further alienating themselves from the Francophone community.

The Anglophone community had been the Jewish community's model of leadership and integration into Canadian society for economic and social advancement.³⁰ The association between the two communities was strengthened by the fact that Quebec's education system was organized along the lines of religious denomination. Because Jewish students were excluded from Roman Catholic schools, they became *de facto* Protestants for the purposes of education. For much of the nineteenth century, the Anglo-Protestant community of Montreal had maintained a cordial relationship with the established Jewish community. By the end of the century, however, the influx of these non-English-speaking immigrants strained relations between the two groups. The tension was heightened in 1921 when the Protestant School Board drafted a bill that effectively segregated Jewish students. Moreover, restrictions were not limited to primary and secondary schools; at McGill University, for example, strict quotas were introduced to limit the number of Jewish students in several faculties.³¹ Thus, anti-Semitism was not confined to the French community; instead, the systematic anti-Semitism of English-Protestants was "more efficient, though better concealed."³²

C. The Effects of Anti-Semitism

Throughout the early twentieth century, Jews were actively discriminated against in their attempts to participate equally in Canadian life.³³ In response to the anti-

²⁹ Langlais & Rome, *supra* note 25 at 53. See also Irving Abella's analysis that highlights the extent of discrimination among the leaders of the Francophone community in I. Abella, "Anti-Semitism in Canada in the Inter-war Years" in R. Moses, ed., *The Jews of North America* (Detroit: Wayne State University Press, 1987) 235 at 239: "In the writings of almost every leading church and nationalist figure in Quebec, the Jew was commonly depicted as a parasite, the bearer of a germ spreading an insidious disease that was undermining the national health."

³⁰ Robinson & Butovsky, *supra* note 20 at 16, described Montreal's Anglophone community: "Remotely ensconced in the western parts of the city, [the English Canadians] demonstrably occupied leadership positions in the city: in trade and commerce, the professions, and public institutions."

³¹ *Taking Root*, *supra* note 22 at 241. While this was true of the Faculties of Arts and Medicine, McGill's Faculty of Law did not institute quotas.

³² Langlais & Rome, *supra* note 25 at 87-88.

³³ Abella, *supra* note 29 at 236-239. Abella emphasized that during the inter-war period it was not uncommon for Jews to be excluded from employment opportunities, educational institutions, beaches, resorts, and restaurants. In addition, Jews were continually threatened, harassed, and assaulted because of their religious and ethnic identity.

Semitic reaction of Quebec's two ethnic majorities, the institutions of the Jewish community began to reflect the community's more immediate needs and concerns.³⁴ Jews began to develop a network of ethnic community organizations through the formation of social, cultural, and economic institutions in order to preserve their ethnic roots.³⁵ According to Evelyn Kallen, author of a socio-anthropological study on Jewish identity:

Prejudice and discrimination against Jews in Canada, as in Europe, provided strong boundary maintaining mechanisms, isolating the Jewish population and reinforcing the negative, racial stereotype imposed upon Jews by others. While this negative stereotype impeded penetration and upward mobility of Jews within public, Anglo-Canadian institutions, it also created a "backlash" by strengthening bonds forged with ethnic insiders through common participation in Jewish institutions.³⁶

Kallen describes how the Jewish values of "hard work and moderate living"—similar to the Anglo-Protestant work ethic—helped facilitate the community's acculturation process.³⁷ Furthermore, the underlying religious premise (rooted in Talmudic ethics) that Jews are responsible for one another was an additional factor that motivated them to build essential services within the Jewish community.

The significant degree of prejudice and discrimination encountered by Jews isolated the community and compelled its members to promote self-reliance and protection. Kallen indicated that the community's adoption of self-employment was a self-preservation technique and a means of avoiding job discrimination.³⁸ Collective bonds within the ethnic community were consequently strengthened. To establish and maintain Jewish community services, knowledge of the political and legal framework

The negative results of anti-Semitic attitudes on various aspects of Jewish life were described by the Canadian Jewish Congress, *Report on Anti-Semitic Activities in Canada* (Montreal: Canadian Jewish Congress, 1937) at 236:

The most pernicious results of this movement have been the startling increase in the number of individuals and companies who refuse to rent living quarters to Jews; the spreading policy of not employing Jews; the boycott of all Jewish firms; the sporadic attempts by various organizations to involve Jews in disturbances and in violence.

³⁴ Jewab, *supra* note 25 at 44. Jewab described how the dynamics between the Jewish community and Quebec's two dominant groups affected the community's development:

From the beginning of the twentieth century, the insularity of the French Catholic community, combined with the English Protestant minority's desire to maintain strict control over its institutions, resulted in the Montreal Jewish community assuming perhaps greater responsibility for its own social and institutional development than was the case elsewhere in Canada and the United States (*ibid.*).

³⁵ See generally M. Rosenberg, "The Montreal Jewish Community" in C. Spillberg & Y. Zipper, eds., *Canadian Jewish Anthology* (Montreal: Canadian Jewish Congress, 1982) 31 at 33 [hereinafter "Montreal Jewish Community"].

³⁶ E. Kallen, *Spanning the Generations: A Study in Jewish Identity* (Toronto: Longman, 1977) at 44.

³⁷ *Ibid.* at 43.

³⁸ *Ibid.* at 42.

was required. The training and experience possessed by lawyers proved to be vital. As Jewish lawyers were impeded from practising outside their community, their dependence on the Jewish community for clients strengthened their commitment to the community's development.

III. Jews in the Legal Profession, 1880-1950

For the better part of the twentieth century, Jewish lawyers were not segregated from their community by educational achievement, professional affiliations, or class distinctions.³⁹ The fact that Jewish lawyers shared a similar immigrant experience with others in their ethnic group created a "positive effect" on their participation in community activities.⁴⁰ The limited number of Jewish lawyers only reinforced their importance within the role of community development.⁴¹ In a predominantly immigrant community not familiar with the laws and workings of Canadian society, lawyers played a crucial role. One Jewish lawyer in Montreal during this period emphasized the degree of respect that was shown by immigrants coming to his office: "The foreign elements regard a lawyer or a doctor as a god."⁴² Philip Vineberg described the unique role that a Jewish lawyer played in his ethnic community in similar terms:

A lawyer at that time was a rather more remarkable person within the Jewish community than he is today. To the people who had little in the way of secular education, the lawyer was an intellectual aristocrat, something rather special. There were a very limited number of lawyers in the Jewish community.⁴³

Lawyers within the Jewish community were thus well-respected, and participation in the legal profession was encouraged within the community.

In the early twentieth century, there was a high rate of Jewish participation in the legal profession across Canada. According to the 1931 census, the total number of Jewish lawyers and notaries in Canada was 351—representing 4.35% of the population of those occupational groups in Canada—yet Jews totalled only 1.51% of the

³⁹ L. Rosenberg, *Canada's Jews: A Social & Economic Study of the Jews in Canada* (Montreal: Canadian Jewish Congress, 1939) at 196 [hereinafter *Canada's Jews*]. According to the 1931 Census, the majority of Jewish lawyers practising in Canada were foreign-born: 178 out of the total 351 Jewish members of the profession.

⁴⁰ "Montreal Jewish Community", *supra* note 35 at 36. See also I. Howe, *World of Our Fathers* (New York: Simon and Schuster, 1976).

⁴¹ In 1931, the Jewish lawyers and notaries of Montreal numbered only seventy-three, and represented 8.77% of all lawyers and notaries in that city. This figure demonstrates a high participation rate given that Jews then represented only 3.78% of the population in the Greater Montreal area: see *Canada's Jews*, *supra* note 39 at 193, 370.

⁴² R. Gold, *Occupational Selection and Adjustment in the Jewish Group in Montreal With Special Reference to the Medical Profession* (Masters Thesis, McGill University, 1942) [unpublished] at xlvii [hereinafter *Occupational Selection*].

⁴³ P. Vineberg, "A Man of History, Samuel W. Jacobs, M.P.: One of the Founders of the Montreal Jewish Community" in Canadian Jewish Congress, *Congress Bulletin* (Montreal: Canadian Jewish Congress, 1967) 5 at 11.

Canadian population.⁴⁴ The 1931 census' further evidence of high Jewish participation is that 0.57% of the Jewish population in Canada identified themselves as lawyers or notaries, in comparison with the average for the general population, where only 0.22% identified themselves as lawyers.⁴⁵ This fact is explained by the 218.9% increase in the number of Jews joining the professions in the period between 1921 and 1931, compared to a 129.3% increase in the general population.⁴⁶

The significant participation of Jews in the Canadian legal profession was a result of various factors, including the cultural importance that the Jewish community placed on the attainment of educational success.⁴⁷ In his analysis of the 1931 census, Louis Rosenberg concluded that Jews were attracted to the professions because they provided an opportunity to escape the negative effects of discrimination:

Examination of the statistics and the actual situation in various cities leads one to the conclusion that the motivating factor which attracts Jews to certain professions rather than to others is not prestige, higher income, preference or hereditary tendency, but the necessity of training for a profession in which they will not be dependent upon a public or private employer for a position, and will not be faced with the danger of initial exclusion or subsequent dismissal as a result of racial, social, or religious prejudice.⁴⁸

A desire for self-sufficiency and security within their employment situation motivated Jews in Canada to attain professional credentials. Casper Bloom described how parental influence motivated Jewish children to pursue careers in the professions for reasons of self-sufficiency and self-preservation:

Jews tended to become doctors, lawyers and accountants partly because their parents influenced them and forced them into these professions, which did not rely on employers who might take away their chances to succeed because they were Jewish. Jews realized that they had to work harder to prove themselves and even so they weren't accepted and didn't get a fair shake. Where Jews could prove themselves and succeed was when they worked for themselves.⁴⁹

⁴⁴ *Canada's Jews*, *supra* note 39 at 193 and 362.

⁴⁵ *Ibid.* at 191.

⁴⁶ *Ibid.* at 173.

⁴⁷ See Kallen, *supra* note 36 at 43:

The traditional Judaic value of religious learning and the customary favouring of intellectual accomplishments, as opposed to physical, were easily transformed, within the Canadian context, into a primary emphasis on the value of secular, public education. Most Jewish immigrants had little or no secular education upon arrival in Canada, and the demands upon their time and energy required in order to earn a living precluded further education advancement. Under contact conditions, however, the high value placed on education merged with the traditional goal of "a better life for their children," and the strategy of immigrant parents focused typically on the acquisition of wealth as the means to the primary goal of higher education for the next generation.

⁴⁸ *Canada's Jews*, *supra* note 39 at 192.

⁴⁹ Interview with Casper Bloom at the offices of Ogilvy Renault, Montreal (23 January 1999).

Participation in the professions allowed Jews to overcome dependence on positions in large corporations or public bodies, where they experienced considerable difficulty in obtaining employment.⁵⁰ For many Jews, law was not their first choice of profession, but it was considered to be their best, given the anti-Semitism that was prevalent during the 1930s and 1940s.

Another reason for the high participation rate of Jews in the legal profession during the inter-war period was related to the ability of students to enter law school without the usual quotas that affected Jewish participation in other university faculties. Alan Gold has emphasized that being Jewish was not a hindering factor in his application to McGill University's Faculty of Law in 1938:

I should say even though those were the years when they still had a quota on Jewish students, the Faculty of Law did not. It was only the undergraduate school, arts and science that did, so I had no problem wondering whether I would be admitted or not.⁵¹

It was not only McGill's Faculty of Law that accepted Jewish students without a quota. Gold ultimately studied law at the Université de Montréal, where his identity as a Jew did not hinder his acceptance to the law school. Gold's experience was reflected in data collected by the Registrar's Office of McGill University which reported that 41% of students in the Faculty of Law in 1924-1925 were Jewish, 39% in 1925-1926, 44% in 1926-1927, and 40% in 1930-1931.⁵² Furthermore, the archives of the Université de Montréal provide statistics that show 15%—*i.e.*, 32—of the 218 students registered in the Faculty of Law in 1933-34 were Jewish.⁵³ Across the country, there were almost twice as many Jews studying law (10.53%) as members of all other groups (5.97%).⁵⁴

A. *Discrimination of Jews in the Legal Profession*

In the late nineteenth and early twentieth centuries, the elite members of the legal profession equally discriminated against “non-whites, non-males, and non-Christians” alike.⁵⁵ Although it has been argued that this type of discrimination reflected the nor-

⁵⁰ As emphasized by one Montreal lawyer, a career in the legal profession represented a means whereby a Jew could obtain some control over his career: “The law profession was not a life-long ambition with me, nor did I seriously consider it when I was in college. I became a lawyer because this was the line of least resistance. I could pave my own way in life” (*Occupational Selection, supra* note 42 at lii).

⁵¹ A. Gold, “Lawyers and Judges are Just a Family for Better or for Worse” in B.M. Knight & R.A. Alkallay, eds., *Voices of Canadian Jews* (Montreal: Chestnut Press, 1988) 63 at 65 [hereinafter “Lawyers and Judges”].

⁵² P. Anctil, *Le rendez-vous manqué ? Les Juifs de Montréal face au Québec de l'entre-deux-guerres* (Québec: Institut Québécois de recherche sur la culture, 1988) at 67.

⁵³ *Ibid.* at 146.

⁵⁴ *Canada's Jews, supra* note 39 at 271.

⁵⁵ Auerbach, *supra* note 4 at 30.

mative order with respect to cultural prejudices at the time, Auerbach contends that discrimination within the legal profession had more to do with the self-preservation of a perceived legal "culture" and the community to which this culture belonged.⁵⁶ While the roots of this prejudice lay in the societal norms of the day, its actual manifestation may have been motivated by concerns for the preservation of homogeneous values within the profession.

The fact that Jews were entering the profession in greater numbers than most other ethnic groups made them more susceptible to discrimination on a larger scale, as they were perceived to be a threat to the homogeneous character of the legal elite. Many of the opportunities available as a result of the expanding economy were not available to Jewish lawyers. There was a shortage of qualified young lawyers in Montreal, which further heightened the potential for Jewish lawyers to exploit new economic opportunities.⁵⁷ The effect of anti-Semitism, however, was to limit their access to many of the new opportunities. Jews had to work harder than other groups only to accept less.⁵⁸

Although opportunities existed for Jewish students studying law, these students were not immune from the prevailing discriminatory environment against Jews in Quebec. The large presence of Jews at McGill came to be identified in the late 1920s as the "Jewish Problem". In fact, even without a formal quota imposed on Jewish students in the Faculty of Law, the number of Jewish students decreased dramatically in the 1930s—from 40% of the total population in 1930-1931 to only 5% of students in 1935-1936.⁵⁹ According to Rosenberg's 1939 study of the Jewish community, he de-

⁵⁶ In Hamill's study of the Campbell, Meredith firm, *supra* note 8 at 96, the author maintains that this type of systemic discrimination was based on social normativity rather than any defect in the profession:

In its gender and ethnic exclusivity, the [Campbell, Meredith] firm mirrored the contemporary prejudices of Canadian society. However, given that these prejudices were societal rather than institutional in origin, it would be presentist to criticize Campbell, Meredith for exhibiting racist or sexist tendencies: the firm was merely a product of its time and culture.

In contrast, Auerbach, *ibid.* at 4, argued:

A paramount objective of this elite was to structure the legal profession—its education, admissions, ethics, discipline and services—to serve certain political preferences at a time when social change threatened the status and values of the groups to which elite lawyers belonged and whose interests they wished to protect.

⁵⁷ Mitchell & Slinn, *supra* note 9 at 79.

⁵⁸ See generally *Canada's Jews*, *supra* note 39 at 304:

It is taken for granted that for a Jew to secure an appointment in competition with non-Jews he must be ten times as good as the average applicant in order to have a tenth of the average applicant's chance. ... Many firms in advertising for employees add the words "Gentiles only" or "Christians only".

⁵⁹ Ancil, *supra* note 52 at 65, 69-73.

scribed how the use of anti-Semitic propaganda discouraged the application and acceptance of Jewish students in Canada's law schools:

[S]ome have even gone so far as to justify the many devices, open or camouflaged, which are used by professional schools and colleges to limit the number of Jewish graduates in certain professional fields, or to suggest that Jews themselves adopt a sort of "self-denying" ordinance and limit the number of Jewish students in training for the medical and legal professions.⁶⁰

This discouragement was achieved even without official quotas.

Even admission to law school did not enable Jewish students to escape the effects of anti-Semitism. As described by Gold regarding his own experience:

There is no doubt that during the years when I was at law school, 1938-1941, there was a fairly obvious undercurrent and sometimes it was an over-current, if that's the proper term, of anti-Semitism in the community and the university did not escape it. ... [T]here were moments at the University where I was surely unhappy and uneasy. ... They were difficult times, without question. To say that they were not would be to deny reality.⁶¹

Another experience demonstrates how Jewish law students had to deal with prejudice among friends:

I was the only Jew in law and got along well with the French-Canadians. I was invited to all their functions. One incident, however, disillusioned me greatly. On a visit to the breweries, with a police escort, the boys, in the midst of a lot of noise, started yelling "À bas les Juifs"! I was very surprised and said so. "Mais vous êtes différent". The usual response.⁶²

In the inter-war years, Montreal's Jewish lawyers thus experienced anti-Semitism throughout every stage of their professional development—from the beginning of their legal education to the development of their practice—and also in their professional activities and associations.

Despite the limitations placed on Jewish participation in the legal profession, Jews were active in several professional associations and governing bodies. Nevertheless, they could not escape anti-Semitic attitudes and behaviour, even among their professional colleagues. The most prominent lawyers in the Jewish community, such as Samuel Jacobs and Louis Fitch, also experienced discrimination in their attempts to obtain leadership positions at the Bar.⁶³ Jacobs, however, became Treasurer of the Montreal Bar in 1916. Yet despite the unwritten custom that the English-speaking Treasurer succeeded to the office of *Bâtonnier*, Jacobs was never accorded this title,

⁶⁰ *Canada's Jews*, *supra* note 39 at 190.

⁶¹ "Lawyers and Judges", *supra* note 51 at 73.

⁶² *Occupational Selection*, *supra* note 42 at 52.

⁶³ See B. Figler, *Sam Jacobs, Member of Parliament (Samuel William Jacobs K.C., M.P., 1871-1938)* (Gardenvale, Qc.: Harpell's Press Co-operative, 1959) [hereinafter *Sam Jacobs*]. See also B. Figler, *Louis Fitch, K.C.* (Ottawa: Canadian Jewish Profiles, 1968) [hereinafter *Louis Fitch*].

and was passed over in favour of an Anglo-Protestant candidate.⁶⁴ Similarly, Fitch met with disappointment in his attempts to gain recognition at the Bar: "His English and French colleagues became Crown Attorneys, Bâtonniers of the Montreal and Provincial Bars, [and] were appointed to the Bench of the Superior and Appellate Courts. But no Jew could receive such appointments."⁶⁵ Instead, Fitch had to settle for modest appointments as a member of the Bar Library Committee in 1927, and then as an elected councillor of the Montreal Bar in 1950.

David Rome has described other examples of how Jewish lawyers continuously struggled to obtain representation on the Council of the Montreal Bar.⁶⁶ Nathan Gordon, a Jewish lawyer, was nominated in 1933 as one of the three English-speaking positions for the Council. The tradition was that Francophone members would support the Anglophone nominations, thus ensuring adequate bicultural representation. However, various English members suggested to the French members that they should nominate an additional French candidate in addition to the two traditionally assigned to them. The result was that Gordon, the Jewish-English candidate, was defeated. Rome concluded that prejudice was the reason for his defeat.⁶⁷ In Alan Gold's opinion, Rome's conclusion is supported by the fact that because Jews were a minority within the English-speaking sector of the Bar, they would never be able to elect a Jewish candidate to the Bar prior to the end of the World War II.

The following account is a clear example of the struggle that Jewish lawyers encountered in their attempts to obtain representation on the Council of the Montreal Bar.⁶⁸ The Quebec Bar held its 1948 conference at the Mont-Tremblant Lodge—a facility in the Quebec Laurentians owned by Joseph Ryan—which did not admit Jews. This meant that senior members of the Montreal Bar who were Jewish could not attend.⁶⁹ The Bâtonnier of the Montreal Bar, Gustave Monette, K.C., was appalled by

⁶⁴ Sam Jacobs, *ibid.* at 43.

⁶⁵ Louis Fitch, *supra* note 63 at 84.

⁶⁶ D. Rome, *Clouds in the Thirties On Anti-Semitism in Canada: 1929-1939* (Montreal: Canadian Jewish Congress) vol. 2 at 78.

⁶⁷ Rome, *ibid.*, wrote:

In consequence—and by deliberate choice—the English had two minority seats on the council instead of the three they were entitled to by agreement—a very significant surrender of position motivated solely by racial prejudice, for even those who opposed Gordon paid high tribute to him as a person and as an advocate.

⁶⁸ The details of this experience were provided by Gold, *supra* note 24.

⁶⁹ The Lord Reading Law Society, *50th Anniversary Gala Evening Program* (Montreal: Lord Reading Society, 1998) at 23:

At that time, the Lodge, like many other establishments in the Laurentians and elsewhere, had a policy of "no Jews and dogs." When representation is made to change the venue, Ryan's reply is that, it being off-season, there would not likely be many gentile guests around to be offended by a Jewish presence!

See also J. Arnold, "Jews make gains in Quebec legal profession" *The Canadian Jewish News* (7 April 1988) 7.

the exclusion and demanded that the hotel admit Jewish members of the Bar as his guests. The hotel tolerated this arrangement, but the senior Jewish members of the Bar were not appeased. The Jewish members of the Bar held a meeting and urged a boycott of the convention.

The affair galvanized Montreal's Jewish lawyers to advance their objective of obtaining their own representative on the Montreal Council. The movement was described in the Society annals as follows:

To prevent the recurrence of incidents like the unfortunate Mont-Tremblant affair, Gustave Monette also assures the group that the Bar of Montreal would amend its constitution whereby one member of the Jewish faith would be on the Council at all times. Arrangements are made with the English-speaking Section of the Bar of Montreal that one of the Anglophones be a Jew.⁷⁰

The English members of the Bar acquiesced, provided that the Jewish lawyers found their own method of electing that representative. The Lord Reading Society was thus founded to serve as vehicle to ensure the fair representation of Jews at the Quebec Bar, and also to function as a social group for Jewish lawyers. In 1948, the Jewish lawyers of Montreal achieved their goal of attaining a seat on the Montreal Council, but it was not until 1969 that a Jew would become the Bâtonnier of the Montreal Bar.⁷¹ Since the Society's inception, it has been recognized that the Jewish representative on the Montreal Bar Council is a nominee of the Society.⁷²

The same policy of exclusion existed with respect to the judiciary. Prior to 1950, there were no Jewish appointments to any tribunals in Quebec.⁷³ That year, Harry Batshaw became the first Jewish lawyer in Quebec to be appointed to the Superior Court.⁷⁴ Furthermore, it was not until 1961 that Alan Gold became the first Jew appointed to the Provincial Court of Quebec.⁷⁵ Rosenberg attributed the lack of Jewish representation in the judiciary to the struggles between the two rival ethnic groups—*i.e.*, Francophones and Anglophones—who appointed judges to balance and preserve their own power in the governing structures of Canadian society.⁷⁶ During the 1960s

⁷⁰ The Lord Reading Law Society, *ibid.*

⁷¹ *Sam Jacobs, supra* note 63 at 43: Philip F. Vineberg, Q.C. was elected Bâtonnier in 1969 by acclamation.

⁷² One of the current responsibilities of The Lord Reading Law Society is to recommend to the Executive Committee of the English-Speaking Section of the Bar of Montreal the name or names of members of the Jewish faith who would be worthy candidates for nomination to positions available to English-speaking members on the Council of the Bar of Montreal.

⁷³ *Canada's Jews, supra* note 39 at 196. Rosenberg found that in 1931 there was no magistrate or judge of Jewish origin in Canada.

⁷⁴ *Louis Fitch, supra* note 63 at 84.

⁷⁵ "Lawyers and Judges", *supra* note 51 at 74.

⁷⁶ *Canada's Jews, supra* note 39 at 196. See also Arnold, *supra* note 69, where Morton Bressner highlights the notable lack of Jewish representation in the Judiciary:

The rarity of Jews in judicial positions in Canada was all the more notable in view of the fact that Jews had held very prominent positions in the judiciary and the admini-

and 1970s, The Lord Reading Law Society continually advocated for greater representation of Jewish legal professionals on the Bench—especially considering the large number of Jews in the Montreal Bar. In a letter to the Minister of Justice and Attorney-General of Canada, Otto Lang, Yoine Goldstein wrote:

[S]ince the Anglophone membership of the Montreal Bar is one-half Jewish, it would be appropriate, given all the circumstances and the eminent positions which some of the Jewish members occupy before the Bar, that a Jewish appointment to the Court of Appeal be considered.⁷⁷

As a result of the Society's efforts, in 1973 Fred Kaufman became the first Jew appointed as a judge to the Court of Appeal of Quebec.

Not only were Jewish lawyers excluded from representation on the Bench, but they also experienced the anti-Semitic attitudes of members of the Bench. The most evident manifestation of this prejudice appeared in the Judiciary's tendency to base decisions on Jewish stereotypes: "Due to the prejudice of the judge, I lost one case which I am sure I won legally. I had it against a French outfit. The judge was known to be anti-Semitic."⁷⁸ Many lawyers thus became self-conscious of the effect of cultural differences on their pleadings and they attempted to hide their ethnic identities, as illustrated in the following example:

My partner tells me of an instance where two lawyers, one a Jew and one a Christian, were fighting an accident case, when the judge imitated the sing-song voice of the Jew. Personally I don't think I speak with a Jewish tone of voice. ... It is not justifiable to mock my speech when I take particular pains not to speak as a Jew all the time.⁷⁹

It was therefore perceived that a visible Jewish identity represented a negative factor in the attempt to achieve courtroom success.

Once Jewish lawyers had attained admission to the profession, they were limited in their opportunities for advancement beyond their own boutique practices. With the shift to corporate law firms in the 1920s and 1930s, one of the main routes to career and financial success for a lawyer was to find work in an established law firm. The

stration of justice in Great Britain, Australia, New Zealand and the Crown colonies, where Jews formed a much smaller proportion of the population than in Canada.

⁷⁷ The Lord Reading Law Society, *supra* note 69 at 27.

⁷⁸ *Occupational Selection*, *supra* note 42 at 1; see also at xliv which describes the following experience of how judicial decisions were affected by the fact that Jews were parties to the proceedings:

A grocer brought charges against a message boy who had not handed in the money he had collected. The former knew that if he did not have a good lawyer, he would be liable for costs etc. He took out a warrant for his arrest. The boy, a French-Canadian, admitted his guilt. The judge said to me, "My colleague often has collection cases in this court from you people (Jews)." This judge doesn't like Jews. I answered, "My Lord, one must distinguish between collection and criminal cases." It was no use. I got very little pay. I spent an enormous amount of time looking up things; waiting in court; and postponing other business.

⁷⁹ *Occupational Selection*, *ibid.* at 1.

connections made at those law firms provided channels into the economic and corporate elite. Most Jewish lawyers, however, suffered from the restricted hiring practices of larger law firms in Montreal. For example, at Ogilvy Renault in the 1930s and 1940s, there were no Jews practicing law.⁸⁰ The climate of exclusion was similar at McMaster Meighen, which hired no ethnic minorities in this period except for one Egyptian lawyer as a junior for a brief period in January 1944.⁸¹ Alan Gold describes how the exclusion of Jews from larger law firms was the norm:

It was a well-accepted fact that English firms would not hire Jewish students. Some may have been taken on a volunteer basis, however, with the understanding that they wouldn't be kept on at the end of their articling stage. It was not normally the practice for French firms to hire Jewish law students but this was mostly because of a language issue. Also, French firms were mostly sole practitioners unlike the larger English corporate law firms downtown.⁸²

Manuel Shacter, moreover, noted that after his graduation from McGill's Faculty of Law in 1947, it was extremely difficult for Jewish lawyers to find work in non-Jewish law firms or businesses.⁸³

The inability of Jewish lawyers to find work in their field was not limited to Montreal. In 1937, Bora Laskin—future Chief Justice of the Supreme Court of Canada—was unable to obtain employment in Toronto after completing his LL.M. at Harvard. This suggests that Jews in other Canadian cities may have encountered similar resistance.⁸⁴ It would appear, at the time, that even the most successful young Jewish lawyers struggled to find employment opportunities in non-Jewish firms.

Given their exclusion from large law firms, one option for Jewish lawyers looking to advance their careers was to find work in the growing area of corporate legal coun-

⁸⁰ Tees, *supra* note 9 at 140-144.

⁸¹ Mitchell & Slinn, *supra* note 9 at 80.

⁸² *Supra* note 24.

⁸³ Interview with Manuel Shacter at the offices of Mendelsohn Rosentzweig Shacter, Montreal (22 January 1999).

⁸⁴ "Inside the Law", *supra* note 10 at 50-51, n. 92. Wilton describes similar experiences of other Ontario Jewish lawyers:

It has been suggested that aspiring Jewish lawyers ... during the inter-war years faced increasing difficulties in establishing themselves in the law. Unlike the Jewish candidates for entry into the profession at the turn of the century, the new cohort encountered obstacles related to their working-class and Yiddish-speaking backgrounds (*ibid.*).

In J. Bickenbach, "Lawyers, Law Professors, and Racism in Ontario" (1990) 96 Queen's Q. 585 at 594, the author illustrates how Maxwell Cohen attempted to accommodate himself to the reality of anti-Semitism that surrounded Jewish lawyers:

Maxwell Cohen, writing from Harvard Law School to Caesar Augustus Wright about Bora Laskin's difficulties, allowed that he too would likely have similar problems when he looked for a job in Canada: "I recognize" he wrote, "that the Jewish Problem in Toronto presents a serious obstacle, but personal interviews might do a little to offset the initial disadvantage of name."

sel. However, the same restrictions prevailed. David Rome describes how exclusion from employment in the growing industrial and financial sector was a rallying cause for the actions of the Canadian Jewish Congress in 1935:

The chartered Banks of Canada, the insurance companies of the Dominion, the trust companies of the country, and large industrial and commercial interests from coast to coast discriminate against the employment of Jews, openly. ... The discrimination against Jewish labour ... is the most serious problem faced by Canadian Jewry.⁸⁵

The Congress' concerns about discrimination were justified by Rosenberg's 1931 census analysis which found that those of Jewish origin employed as officials in bank and loan companies totalled seventeen for all of Canada, and only three for Montreal. Rosenberg reported that for the financial sector in general, there were only 130 Jews employed "forming only 0.35% of all persons engaged in financial pursuits in Canada—although the Jewish population formed 1.51% of the total population."⁸⁶ The exclusion of Jews from employment opportunities at larger corporate law firms and their corporate clients is also evident in the low number of Jewish directors on boards of major Canadian corporations. Rosenberg found that Jews in 1931 held only 0.74% of all directorates listed in the "Canadian Directory of Directors"—far less than their 1.51% of the total population. There were only five Jewish directors among Canada's one hundred largest corporations. In 1931, no Jew had been a director of any of the Canadian chartered banks, railways, ocean or air transportation companies, telephone and telegraph companies, or public utilities and pulp and paper corporations.⁸⁷

With the expanding industrial economy came the demand for more regulation and involvement by government in industrial development. Carol Wilton emphasizes that government employment for lawyers "became an ever more significant alternative to private practice."⁸⁸ However, Jews were also under-represented among those employed in government. Rosenberg reported that according to the 1931 census, there were only 453 Jews working in public administration—representing only 0.73% of all Jews employed. In comparison to other ethnic groups, Jews had one of the lowest participation rates in public administration even though Jews had the highest level of educational achievement of any ethnic group in Canada. Casper Bloom explained that the under-representation of Jews in the public service was a result of the fact that they were not part of the traditional English or French elite:

In the 1960s, the public service in Quebec has become the exclusive domain of Francophones. Very few non-francophones were working for the public service and very few actually work there today. In the 1950s and 1960s, the federal

⁸⁵ *Supra* note 66 at 33. See also Bliss, *supra* note 8 at 400, where the author writes that the subsequent success of Jewish businessmen and professionals exposed those institutions controlled by the Anglo-Protestant elite which had traditionally excluded Jews.

⁸⁶ *Canada's Jews*, *supra* note 39 at 215.

⁸⁷ *Ibid.* at 214-15.

⁸⁸ C. Wilton, "Introduction—Beyond the Law: Lawyers & Business in Canada, 1830-1930" in *Lawyers and Business in Canada*, *supra* note 8, 5 at 5.

government bureaucracy was too anglicized. However, it started to change under St. Laurent and Pearson. Yet even though Jews were associated with the Anglophone community in Quebec, they still got few jobs in the federal civil service in the 1950s and 1960s.⁸⁹

Rosenberg reported that in 1931, Quebec had the smallest percentage of Jews engaged in public administration. In Montreal, only 0.01% of the public service was Jewish, whereas the average of all other groups was 0.34%.⁹⁰ Even when Jews did find positions in the public sector, discrimination limited their opportunities for advancement:

With the exclusion which operates at the top of other social hierarchies, and with freedom of entry into the bureaucracy, there may be relatively more Jewish candidates for promotion. Thus, for the Jew, ethnicity may act negatively on promotion in the sense that a "tactful balance" at the higher levels may be sought also for this ethnic group.⁹¹

The public sector therefore did not provide a refuge from the anti-Semitic attitudes that Jewish lawyers encountered in private sector employment opportunities. The exclusion of Jews from the public sector actually helped to reinforce discrimination.

The effects of anti-Semitism were intensified during the 1930s by the Great Depression. Jewish lawyers—who predominantly worked as sole practitioners—had even greater difficulty finding business during the Depression.⁹² In contrast to the larger firms—whose large set of corporate clients allowed them to quickly recover from the economic downturn—many Jewish lawyers struggled in dismal working conditions.⁹³ The enormity of the financial difficulty encountered by Jewish lawyers in Montreal during this period is illustrated by the following experience:

Although every man thinks that his business is the hardest to be in, I seriously believe that the law business is the toughest one for any young Jewish man. It is full of that sense of insecurity which is almost as base as not having any money at all. Here one either starves to death or goes nuts because one has to wait around until clients come.⁹⁴

Furthermore, Jewish lawyers were acutely aware of their difficulties in attracting business—especially in comparison to their Anglophone colleagues:

Look at an English lawyer walking along the street, carrying a brief case. He is most likely thinking about the case. Did he present it well? How can he improve it. The Jewish lawyer walking along is thinking: Where am I going to get money for the rent? I wonder when I'll get my next case. I haven't had a case in

⁸⁹ *Supra* note 49.

⁹⁰ *Canada's Jews*, *supra* note 39 at 10-11, 211-12, 264-65.

⁹¹ J. Porter, *The Vertical Mosaic: An Analysis of Social Class and Power in Canada* (Toronto: University of Toronto Press, 1965) at 442.

⁹² C. Wilton, "Canadian Law Firms in Troubled Times: The Inter-war Years 1919-1939" [1990] L. Soc. Gaz. 232 at 245, 251 [hereinafter "Troubled Times"].

⁹³ Mitchell & Slinn, *supra* note 9 at 71, 73-74. See also "Troubled Times", *ibid.* at 244.

⁹⁴ *Occupational Selection*, *supra* note 42 at lii.

three weeks. The former can concentrate on his work for he has no financial problems and this makes all the difference in the world.⁹⁵

The struggle for survival thereby forced many Jewish lawyers to abandon their legal practices.⁹⁶

Some Jewish lawyers would work for free to build a reputation in the non-Jewish community in the hopes of attracting new business. One documented experience highlights how a Montreal Jewish lawyer would give free advice to a “big man” in order to get a “big case” in the future from him. Many times that free work did not provide paying clients, and when the work did arrive it was often assumed that Jews would expect less compensation for their work: “A client of mine, a bank manager, is a cheap chiseller. He constantly tries to fineagle things his way. He feeds me cases and big ones (e.g. on a \$250 case I can get \$31). He starts chiselling and does not give me the collection.”⁹⁷ The Jewish lawyer was forced to work harder and accept less pay to combat the effects of discrimination that surrounded his attempts to find non-Jewish clients.

Even when it was possible to get non-Jewish clients, one Montreal lawyer describes how he focused on middle-class clients because the larger industrial ones were not accessible:

I did not go to the prime industries because I knew I did not have a chance and not because I didn't want to. Once I tried to approach a big industry, but did not get anywhere. I thought over the reason for it and decided that it was because I could not get close enough to the rich men. We had no common meeting ground, no golf club around which to become friendly.⁹⁸

Another option for some Jewish lawyers was to become “ambulance chasers”. Although this practice of hustling clients was illegal, some remained ambulance chasers even though, as one Jewish lawyer explained, “[t]he law catches up with them in the end.”⁹⁹ Even in this practice, Jewish lawyers were forced to compete against the strategies of large firms to obtain clients. In the experience of one Montreal Jewish lawyer involved in accident cases: “One large firm, known strictly for accident cases, has policemen hand out their cards to visitors immediately after the accident.” Jewish lawyers in Montreal, however, did find it easier to attract clients from other ethnic

⁹⁵ *Ibid.* at liv.

⁹⁶ *Ibid.* at liii. As one Jewish lawyer in Montreal expressed the plight of his fellow lawyers at the time: “Why starve in dignity, just because you have a diploma?” He described his personal knowledge of a colleague who left practice because of the difficult economic times: “I knew of another lawyer, who after suffering for six or seven years, gave it up and got a job as a shoe salesman. When I met him he was quite happy. He knew that at the end of the week he would get his thirty dollars and would not have to worry about it” (*ibid.*).

⁹⁷ *Ibid.* at xlviv.

⁹⁸ *Ibid.* at liii.

⁹⁹ *Ibid.* at liv.

communities—including French-speaking clients—if they could communicate in that language.¹⁰⁰

The industrial economy that had developed in Canada during the early twentieth century increased lawyers' vulnerability to market forces. At no time was this vulnerability more apparent than during the Great Depression. Jewish lawyers felt the effects even more profoundly than their English colleagues. These effects were coupled with the anti-Semitism that they experienced during this period. Jewish lawyers therefore focused their legal practice inward toward their ethnic group, and became leaders within their own community.

B. The Importance of the Ethnic Community for Jewish Lawyers

The changes that confronted the legal profession in the early twentieth century had unequal effects on the practice of law. The impact of these changes did not solely affect a lawyers' ability to engage in, and take advantage of, opportunities that resulted from the developing industrial economy. Rather, a lawyer's ethnic identity and social status determined his ability to exploit these new opportunities. Jewish lawyers belonged to an ethnic community whose members were not predominantly part of a higher social stratum. Their lower social status—combined with anti-Semitic discrimination—left limited options for Jewish lawyers. They responded and adapted by developing their legal practice in the expanding Jewish ethnic community and in the emerging ethnic business clientele.¹⁰¹ By promoting and capitalizing on commercial and social contacts in their own community, Jewish lawyers attempted to copy the model of the elite firm. As their practice expanded, new opportunities were created for younger members of the community in the profession, and subsequently for members of other marginalized groups.¹⁰²

One advantage for the Jewish lawyer who was dependent on an ethnic client base for his legal practice was that the Jewish community in Montreal was large and occupationally well-diversified:

The socio-economic structure of the Jewish population of Canada appears to have advanced farther towards the type of the highly industrialized and commercially developed population and in comparative size of professional, "white collar" and skilled and semi-skilled worker groups resembles that of British and French origin more than any other group in Canada.¹⁰³

¹⁰⁰ *Ibid.* at xlvii-xlviii.

¹⁰¹ Manuel Shacter describes the core of his early clients as "Jewish businesses developing in the Jewish community," *supra* note 83.

¹⁰² Shacter, *ibid.*, highlights how Jews created opportunities for members of other minority groups:

The Jews were the first in Montreal to open up opportunities for other lawyers. We [Jewish lawyers] were quick to realize that it didn't make a difference where you came from as long as you were a good lawyer. We saw that also with women, and hired and promoted women to partners.

¹⁰³ *Canada's Jews*, *supra* note 39 at 164.

In addition, Jewish employment was heavily concentrated in those sectors related to the growing industrial economy. The total Canadian Jewish working population in 1931 was 30.7%—composed of proprietors, managers, or officials. Another 19.9% of the Jewish working population was employed in the manufacturing sector. Wholesale and retail merchants represented a further 17.8% of the Jewish workforce. In Montreal, 44.25% of the Jewish population in 1931 was occupied in commercial activities, whereas the percentage for the general population was only 24.92%. Moreover, 66.02% of the Montreal Jewish population was involved in manufacturing and merchandising, compared with only 30.76% of the general Montreal population.¹⁰⁴

The Jewish community's concentrated involvement in the growing industrial economy provided Jewish lawyers with an opportunity to obtain business from ethnic clients in various areas of practice which included workplace accidents, corporate work for Jewish companies, and collection work for Jewish merchants. Manuel Shacter, in his early years of practice during the 1950s, described the character of his corporate legal work as follows: "The work was focused on small Jewish merchants wanting to incorporate, or create partnership agreements, develop leases, or purchase assets." An examination of the correspondence of Montreal lawyer, Bernard Rose, in the early years of the twentieth century further reveals the typical nature of legal business that was procured from the Jewish community.¹⁰⁵ There were demand letters for unpaid bills, services rendered, and promissory notes. There were negligence cases involving car accidents, lost baggage, dog attacks, flooding, and falling icicles. There were also more serious cases of defamation and threats to cause bodily harm.

The exclusion of Jews from established commercial endeavours motivated the community to develop similar enterprises for themselves. Ethnic connections and family networks provided Jews with legal business in a variety of economic areas where Jews were concentrated. Since a large number of Jewish immigrants were involved in the manufacturing sector, many Jews experienced industrial workplace accidents. The potential for legal business was provided through connections to those workplaces by family, friends, or ethnic group members:

My father took me around to the big shots he knows, introducing me to them as his son, the lawyer. We left a card everywhere. Many times, if my father heard of an accident, if a customer of his had an accident, he tried to steer the case my way. Through these clients, others have come my way.¹⁰⁶

¹⁰⁴ *Ibid.* at 158, 160, 162, 185.

¹⁰⁵ Bernard Rose practiced law in Montreal during the early 1900s, specializing in civil litigation. He was a frequent contributor to *Labor World*, and was an active member of the Conservative Party. Toward the end of his career he was designated as King's Counsel, and was honoured by the government of France with the title "*Officier d'Academie*" (courtesy National Archives of Canada).

¹⁰⁶ *Occupational Selection*, *supra* note 42 at xlvi. Alan Gold also emphasized in his interview, *supra* note 24, that family networks and knowledge of people in the community provided valuable business for a Jewish lawyer's legal practice during this period.

Networks that developed through ethnic-group ties also provided connections to potential clients: "My father's employees send me cases in order to get in the good graces of the boss, my father. My father puts things my way indirectly. He knows a lot of people through business and this is very fortunate for me."¹⁰⁷ In the context of the discriminatory environment in which Jewish lawyers found themselves, ethnic-minority clients represented an important source of legal business.

As the century progressed, Jewish lawyers were actively involved in the representation of Jewish business concerns. Philip Vineberg describes how Samuel Jacobs' practice involved representing the "slowly but steadily rising" problems emerging in the commercial activities of Jewish businessmen.¹⁰⁸ Collection work was the predominant type of commercial work received by Jewish lawyers from their community clients.¹⁰⁹ As noted by one Montreal lawyer, involvement in collection work reflected the fact that Jews were heavily concentrated in the retail and manufacturing sectors. While collection cases were described as the least important type of work that a lawyer could do, they represented a great deal of work for Jewish lawyers:¹¹⁰

At the beginning my clients were chiefly grocers and my cases all collection cases. They were small grocery accounts which came to me chiefly through my father. For two months I had nothing but collection cases. It drove me bugs. I felt nauseous about the whole business because it is so mechanical. You do one and you do them all.¹¹¹

However, as evidenced by Rose's correspondence, a great deal of work was obtained as a result of the Jewish community's domination of the garment industry.¹¹² As the labour movement grew, many Jewish lawyers found opportunities within this industry and others.¹¹³

Because of their professional knowledge and ability to control their hours of work, Jewish lawyers were actively involved in the establishment and directorship of ethnic community services and institutions.¹¹⁴ Unlike salaried employees, lawyers—as members of a self-employed profession—were able to invest time in communal activities more easily. Connections with communal activities allowed Jewish lawyers to

¹⁰⁷ *Occupational Selection*, *ibid.* at xlvii-xlviii.

¹⁰⁸ Vineberg, *supra* note 43 at 10.

¹⁰⁹ *Occupational Selection*, *supra* note 42 at liv.

¹¹⁰ *Ibid.* at liv.

¹¹¹ *Ibid.* at xlvi.

¹¹² Rose either acted on behalf of the following companies, or represented individual claims against them. Some of the companies included the Montreal Skirt & Cloak Co., The Merchants' Garment and Cap Co., and Parisian Ladies' Tailors, for whom he drafted the articles of incorporation. He also acted on behalf of the Canadian Waterproof Clothing Workers Union (courtesy National Archives of Canada).

¹¹³ There is some evidence that Rose was involved in the Montreal Light, Heat & Power Co. labour dispute in 1923.

¹¹⁴ See generally Y. Tzuk, *Jewish Communal Leadership in Montreal: A Case Study* (Montreal: McGill University, 1984) at 55.

develop linkages with some of the more successful Jewish businessmen who were also actively involved in community affairs. Manuel Shacter benefited from his community connections for clients in his early years of legal practice: "The original client base was made by establishing relationships with clubs and services in the Jewish community."¹¹⁵ Canadian historian, Michael Bliss, suggests that the financial success obtained by the Bronfmans and others in the community increased the visibility of Jews within Canadian society, and also increased business for Jewish lawyers.¹¹⁶

Lazarus Phillips and Philip Vineberg are perhaps the best examples of this successful combination. Both began their careers in Samuel Jacobs's firm. Phillips had been one of Jacobs's protégés, and by 1923 he had become a full partner in the firm.¹¹⁷ As chief legal advisor to the Bronfman family empire, Phillips also became a very prominent and wealthy member of Canadian society:

For most of three decades, Lazarus Phillips served as the Bronfman's visible face and public voice. He was their chief go-between. He had the manners and the contacts, the social acceptability and political prestige to which the brothers could only aspire. With his brains and their money, he achieved a degree of political, legal, and corporate clout unique among Canadian lawyers.¹¹⁸

During his prestigious career, Phillips was bestowed the honour of Queen's Counsel, appointed to the Senate, and awarded the Order of the British Empire. He was considered to be the most influential Canadian Jew of his generation. After Phillips, his nephew Philip Vineberg—an Elizabeth Torrance gold medalist at McGill's Faculty of Law—inherited the mantle of chief legal advisor to the Bronfmans. Built on these ethnic community associations, the Phillips and Vineberg firm went on to become one of the most successful modern law firms in Montreal and all of Canada.¹¹⁹

¹¹⁵ *Supra* note 83.

¹¹⁶ Bliss, *supra* note 8 at 400:

It was no accident that the Bronfmans and many of their associates in the liquor business were Jews. The poor emigrants from Central Europe who began arriving in Canada in the 1880s soon ... formed a community of high-achievers whose upward mobility, from the bottom rungs of society, began to be obvious by the 1920s. In the ghettos of Montreal and Winnipeg there were thousands of Jewish-operated businesses: groceries, butcher shops, jewelry stores, every kind of garment trade, real estate offices, cinemas, car dealerships, hotels, whatever.

¹¹⁷ P.C. Newman, *Bronfman Dynasty: The Rothschilds of the New World* (Toronto: McClelland & Stewart, 1978) at 56.

¹¹⁸ *Ibid.*

¹¹⁹ On March 6, 1995, the firm merged with the Toronto firm of Goodman & Goodman, and currently operates under the name of Goodman, Phillips & Vineberg.

C. Jewish Lawyers and Community Activism

The activism of Jewish lawyers within their community increased their degree of visibility and created opportunities for business from ethnic clients.¹²⁰ In short, commitment to the development of strong Jewish community institutions was important for many Jewish lawyers as the success of their ethnic group became strongly linked to that of their own practices.

In the early years of the century, the Jewish lawyer was the champion of the “underdog”. Not only did he defend new immigrants from unscrupulous landlords and sweat-shop foremen, he functioned as a lobbyist for the rights of established Jews and new immigrants—both individually and collectively. Bernard Rose, whose practice spanned almost five decades, used his connections with the Conservative party to aid both individual clients and the community in general. His efforts included assisting clients and members of the community to find employment,¹²¹ and lobbying the Deputy Minister of the Interior, W.W. Cory, and the Minister of Justice, C.J. Doherty, with respect to the individual immigration cases of his clients. In 1912, he represented a delegation from the Canadian Waterproof Clothing Workers Union at a meeting with the Minister of Finance on imposing importation quotas to protect the industry.¹²² Rose

¹²⁰ Alan Gold, *supra* note 24, discusses how being involved in the community and being active at community meetings, being responsible for activities, and speaking out for the community helped develop connections to the Jewish community and increase business.

¹²¹ There are many letters in this collection which illustrate Rose's efforts to find a position for a certain Joseph Goodman of Toronto, described in a letter as a man of forty years, fluent in Russian, Polish, English, German, and Yiddish. Furthermore, Goodman's son was an active member of the Hebrew Conservative Club at the University of Toronto. In his letters, Rose reveals his frustration with the process, as he wrote to his friend Louis Gurofsky on February 5, 1912:

It would seem that individuals who have done very little for the party are receiving the preference. As far as I am personally concerned, I get along very well with the powers that be, and when I have occasion to ask for little things I have no difficulty in getting them. It is unfortunate that Goodman has not been living in Montreal for some time, as, if he had, he would have been placed with the Government some time ago (courtesy National Archives of Canada).

In another letter to a Mr. N. Ashkilooney of St. James Street, Montreal, regarding a placement in a garment factory, he wrote:

When you met me a few weeks ago and spoke to me about Union Clothing Co., I lost no time but went up with you and asked that you be given a position. You made a good impression, and that[,] added to what I said about you, would have given you a chance to get into a steady position that you could keep as long as you liked. Upon several occasions that I called, Mr. Godinsky told me that he had you in mind (courtesy National Archives of Canada).

¹²² His letter to his M.P., H.B. Ames, requested the meeting: “On account of increased quantities of goods that are being imported into this country, the members of the organization and others employed in this industry are of the opinion that they will suffer from scarcity of employment and reduced wages” (courtesy National Archives of Canada).

was also asked by the Minister of Justice to comment on certain proposed reforms to the *Immigration Act*.¹²³

Samuel Jacobs was one of the most prominent examples of successful Jewish lawyers known for his significant efforts on behalf of the community. As a Member of Parliament for the Cartier riding in Montreal from 1917 to 1935, Jacobs enjoyed considerable public presence in his community, which in turn provided advantages for his legal practice.¹²⁴ As the son of Lithuanian immigrants belonging to a slightly older generation of pre-Migration, non-Anglo Jews, Jacobs graduated from McGill University's Faculty of Law in 1893 at the age of twenty-two, obtaining a B.C.L. degree with first class honours.¹²⁵ To improve his French, he went on to complete a Masters degree in law, graduating *magna cum laude* a year later from Université Laval. In 1894, Jacobs was admitted to the Bar and joined the practice of a former school-mate, Percy C. Ryan, who was at that time "a well-known jurist."¹²⁶

Both as a lawyer and a Member of Parliament, Jacobs advocated the rights of Jews and other minorities. He took a leading part in the activities of the Young Men's Hebrew Benevolent Society—later known as the Baron de Hirsch Institute—which assisted Jewish immigrants arriving to Canada. He was a passionate defender of the democratic rights of all citizens. In 1904, after claiming that approximately one thousand Jewish citizens had been disenfranchised through the omission of their names from the voters' lists, he launched an investigation resulting in the dismissal of a clerk at Montreal City Hall.¹²⁷ He was also responsible—in conjunction with Lyon Cohen—for the publication of the first Jewish newspaper in Canada, *The Jewish Times*, which provided a Jewish perspective on social and political issues. Later in his career, after becoming a Member of Parliament, he attacked the restrictive immigration policy of Robert Borden's Conservative government. He firmly believed in the labour movement and collective bargaining, and was a staunch supporter of women's rights.

As a lawyer, Jacobs's role was primarily as a defender of his own community's equality interests. He played a critical role in a number of important cases before the courts in matters affecting Jewish citizens and their rights under Quebec law. Jacobs was also instrumental in the passing of various legislative acts in Quebec protecting

¹²³ S.C. 1910, c. 27. On January 27, 1912, Rose wrote to Gurofsky:

While I did not go to Ottawa with the specific purpose of making suggestions concerning the Immigration Law, it was in connection with the case of a client whose sister-in-law wished to come into this country, and while there, owing to the number of cases increasing, I decided it would be advisable to have the Order in Council, excluding all those who do not come direct to this country, somewhat modified. I discussed the legal aspects with the Minister of Justice and then I made certain recommendations (courtesy National Archives of Canada).

¹²⁴ Vineberg, *supra* note 43 at 10. Sam Jacobs is considered the founder of the firm now known as Goodman, Phillips & Vineberg.

¹²⁵ *Sam Jacobs*, *supra* note 63 at 2-3.

¹²⁶ *Ibid.* at 3.

¹²⁷ *Ibid.* at 19, 81-90.

the rights of Jewish community members, including the *Lord's Day Act*, the *Marriage Licence Act*, and the *School Act*.¹²⁸

There were three legal cases that distinguished Jacob's career as an advocate of the Jewish community. The first case was Louis Hart's suit against the City of Trois Rivières for the expropriation of his family's cemetery. The Jewish community denounced the City's actions as a sacrilege because the graves had been disinterred without the supervision of a rabbi to ensure adherence to Jewish ritual.¹²⁹ Jacobs played a significant role in representing the community's interests and in ensuring that the remains were properly preserved and relocated to a cemetery in Montreal.

There was also *Pinsler v. Protestant Board of School Commissioners*,¹³⁰ where Jacobs defended the rights of a youth who had been denied a scholarship by the Protestant School Board. According to the arrangement between the Protestant school administrators and the Jewish community, the only members of the community who were entitled to any rights in Protestant schools were Jewish property owners who paid taxes to the school board.¹³¹ The Board alleged that the boy's father was a "tenant and not a proprietor," and for that reason it was deemed that the younger Pinsler was not entitled to the scholarship. Jacobs viewed the Board's position as "contrary to British justice"—particularly since the legislature had passed a law in 1831 that granted Jews all the rights and privileges of the other royal subjects in the province of Quebec. He argued that Jewish children ought to possess the same rights as Protestant children regardless of whether their fathers owned property.¹³² Although his petition was dismissed, the case was viewed as a moral victory for Jacobs, since the judge acknowledged, in *obiter*, that there was a pressing need for the National Assembly to consider an amendment to the school charter for Jewish students.¹³³ This case ultimately resulted in a new agreement between the Board and the Jewish community, and a subsequent amendment of the legislation in 1903 which deemed Jewish children to be "Protestants for school purposes." This amendment allowed Jewish students to have equal rights in Protestant schools, provided that Jewish proprietors continued to pay taxes to the Protestant School Board.¹³⁴

Perhaps Jacobs' greatest success as a lawyer, however, came in *Ortenberg v. Plamondon*,¹³⁵ where he represented two Jewish businessmen in Quebec City in a suit against a local journalist. The two sought damages against Plamondon, whose lecture

¹²⁸ "Samuel William Jacobs, K.C., M.P.—'The Defender of His People' Passes Away" *The Canadian Jewish Chronicle* (26 August 1938) 10.

¹²⁹ B.G. Sack, *Canadian Jews Early in this Century* (Montreal: National Archives, Canadian Jewish Congress, 1975) at 4-5.

¹³⁰ (1903), 23 C.S. 365 [hereinafter *Pinsler*].

¹³¹ *Sam Jacobs*, *supra* note 63 at 22.

¹³² Sack, *supra* note 129 at 11.

¹³³ *Sam Jacobs*, *supra* note 63 at 22.

¹³⁴ Sack, *supra* note 129 at 16.

¹³⁵ (1914), 24 B.R. 69 [hereinafter *Plamondon*].

had incited Anti-Semitic behaviour and abuse against Jews in Quebec City.¹³⁶ From 1910 to 1915, Jacobs argued the case before the Superior Court and Court of Appeal of Quebec. The case gained attention because the defendant had claimed that the Jewish faith called on its adherents to commit horrifying crimes against Christians. Jacobs stressed that this type of slander could lead to serious assaults against the Jewish community—similar to the pogroms of Eastern Europe—and that this type of behaviour should not be tolerated in a free and just society. He argued:

[T]here are only two cities in the whole world where ritual murder accusations still figure in the litigation lists. These are Kiev, and Quebec. One is located in backward Russia, and the other in free Canada. The difference here is that in Kiev it is impossible to bring the case to court, because the prosecution deems it not in their interest. But in Quebec, a British city with British courts of justice, the lawyers for both sides decided three or four weeks ago to begin this trial, which is now over. This is the difference between the British system of Justice and the Russian.¹³⁷

Despite his convincing arguments, the trial judge agreed with defense counsel that no damages could be claimed against the defendants because their accusations were not directed at the plaintiffs, nor at individual Jews, but rather at the Jewish people as a whole. On appeal, however, Jacobs was victorious. The Court of Appeal unanimously reversed the decision of the trial judge, citing that “even though damages could not be claimed by an individual arising out of incitement against an entire people, race, or religion,” in this case the target was specifically the Jewish community of the city and province of Quebec, of which the plaintiffs were a part.

Jacobs’ belief in equal rights for oppressed groups manifested itself throughout his career—and in this respect he did not limit himself to the Jewish community. He was a particularly strong advocate in favour of admitting women to the legal profession. In 1914, he represented Annie Macdonald Langstaff, who had been denied her application to write the Bar examinations on the grounds that she was a woman.¹³⁸ The petition was denied on the grounds that it would be against public order for a woman to appear in court and a “manifest violation of the law of good morals and public decency.”¹³⁹ The court rejected Jacobs’ argument that because the *Bar Act*¹⁴⁰ did not ex-

¹³⁶ Sack, *supra* note 129 at 83ff.

¹³⁷ *Ibid.* at 85.

¹³⁸ *Sam Jacobs*, *supra* note 63 at 37:

[T]he tendency of the age the world over ... and particularly in new countries being to-day towards a large measure of liberty for all classes and for both sexes, it would be contrary to the spirit of the Canadian system of law, and particularly that of the Province of Quebec, to permit said tendency to be controlled and hampered by antiquated rules and usages which, when it comes to a question of permitting women to engage in a profession in which they are quite as capable as those of the other sex, would lead to an unfair discrimination and even to a positive injustice.

¹³⁹ *Ibid.* at 38.

¹⁴⁰ R.S.Q. c. B-1.

pressly exclude women, it was not the intention of the legislature to do so. Jacobs appealed the decision, but the Court of Appeal upheld the lower court's result. Although the *Bar Act* was not amended until 1941, Jacobs' efforts clearly helped to expedite the admission of women to the profession.

Another area where Jacobs attempted to advance the interests of Jews in the legal profession was by providing opportunities in his own practice to promising Jewish law students.¹⁴¹ One such protégé was Louis Fitch—who later became a partner in the firm in 1916. Fitch was born in Austria in 1889. Two years later his family immigrated to Canada and settled in Quebec City.¹⁴² Fitch graduated from McGill University's Faculty of Law in 1911 at the top of his class, and was awarded the Elizabeth Torrance Gold Medal.¹⁴³ Fitch remained "indentured" to Jacobs for three years, during which time he assisted Jacobs in many of his prominent cases, including *Plamondon*.

Fitch was a brilliant litigator and had a prominent career in both civil and criminal law. He was also elected to the Legislative Assembly on November 2, 1938 as a member of the Union Nationale Party for the riding of St. Louis. He continuously defended the rights of Jews in the Assembly—especially against the growing anti-Semitism of the late 1930s. At the opening of the first session of the Assembly following his election, Fitch seconded the speech to the Throne, traced the history of the civil rights of Jews in the Province of Quebec, and made a strong plea for the respect of all minority rights.¹⁴⁴ Louis Fitch's advocacy for the Jewish community in the provincial legislature followed the example set by his predecessor, Peter Bercovitch—a Jewish lawyer who represented the Liberal party from 1919 to 1936 in the St. Louis riding. Bercovitch once rose to speak in opposition against a budget speech because of its attack against Jews.¹⁴⁵ During the April 1939 session of the Assembly, Fitch

¹⁴¹ See "He Hung Up His Hat and He Went to Work" *The Globe and Mail* (21 May 1998) C3 at C3 where it describes the first experience of Lazarus Phillips with Samuel Jacobs: "When young lawyer Lazarus Phillips went seeking advice after the First World War, the late S.W. Jacobs ... gave it to him—and quickly, You talk too much. Hang up your hat and get to work."

¹⁴² Letter from David Rome to Dr. Wigoder (26 December 1973), outlining a brief biography of Louis Fitch (courtesy Canadian Jewish Archives).

¹⁴³ *Louis Fitch*, *supra* note 63 at 10, 11. He was also awarded the Sir William Macdonald Traveling Scholarship, which supported one year of study at the University of Paris and the Sorbonne.

¹⁴⁴ See "The Conscience of A Government May Be Measured by the Treatment of its Minorities" *The Canadian Jewish Chronicle* (20 January 1939) 3, excerpts from the address made by Louis Fitch, K.C., M.L.A. when he seconded the motion that the Speech from the Throne be adopted.

¹⁴⁵ Peter Bercovitch was responding to the following statement included in the budget speech: "Are we not greatly inferior economically to the other races? Unfortunately, yes. The Americans and the Jews hold the greater part of the natural resources of the province" (H. St. Pierre, "Budget Voted, Assembly In Committee of Supply" *The Montreal Star* (23 October 1936) 7). Bercovitch also declared himself being against accepting the provincial treasurer position if offered by his party on the grounds that in Quebec and Canada, positions for government were being offered on the grounds of race and language, not ability. He would not accept a position offered on the grounds of race or language ("M. Bercovitch n'accepterait pas" *Le Devoir* (30 October 1931) 5). Bercovitch, in conjunction with Joseph Cohen, also presented a bill to the Quebec Assembly denouncing the anti-semitism in the Que-

made a motion denouncing Fascist and Nazi activities in the Province.¹⁴⁶ His efforts in the Assembly ultimately led to the closing of the German Club in Montreal and the seizure of Nazi films.

Fitch's greatest contribution to the Jewish community, however, was as their advocate in the "Jewish School Question" (a case brought against the Protestant School Board), which Fitch argued all the way up to the Privy Council. The relationship between the Jewish community and the Protestant School Board remained strained after the compromise of 1903. Over the next two decades, the Jewish community became increasingly dissatisfied with its treatment in the Protestant school system. The Board refused to hire Jewish teachers, and in 1916 it rejected an application by the Jewish community to appoint one Jewish member to the Board. Finally, the Board issued an order to segregate Jewish children in the classrooms.¹⁴⁷ This provoked the Jewish community to increase pressure on the government to reform the *Education Act*¹⁴⁸ and create a separate school system for Jews.

The separate school issue highlighted the tensions between the older community—who wanted to maintain a close association with the Anglo-Protestant social network—and the more recent immigrants—who favoured the creation of a completely separate school system that would provide greater protection for their culture and religious practices.¹⁴⁹ Fitch recognized that each group was responding to mutually exclusive tendencies of the Jewish community—the former to the community's desire for assimilation, and the latter to its proclivity for self-preservation.¹⁵⁰ He felt strongly, however, that it did not serve the interests of the community to continue to expose its children to the continued humiliation, discrimination, and segregation at the hands of the Protestant school system.¹⁵¹ Thus, for Fitch, the issue was above all one of equality and freedom from discrimination for his community.

bec press ("MM. Bercovith, Cohen, le bill Bercovitch et M. Stockwell" *Le Devoir* (17 February 1932) 4).

¹⁴⁶ See "Nazis in Limelight—St. Louis M.L.A. Asks Curb on Activities Here" *The Montreal Star* (27 April 1939) 1.

¹⁴⁷ *Louis Fitch*, *supra* note 63 at 2-3.

¹⁴⁸ S.Q. 1899, c. 28.

¹⁴⁹ G. Tulchinsky, "The Contours of Canadian Jewish History" in *The Jews in Canada*, R.J. Brym, W. Shaffir, & Morton Weinfeld, eds. (Toronto: Oxford University Press, 1993) 5 at 7:

The fact that most of those participating in the dispute came from conflicting economic and social groups tended to exacerbate the already sensitive relations between working-class "downtown" Montreal Jewry and the patricians and clothing-factory owners of the west end. Seeking social acceptance by the Anglophone elite, the latter segment of Montreal Jewry wanted their children to attend the Protestant schools, while the downtowners—who were usually more recent immigrants—tended to favour the protection which a completely separate system would provide.

¹⁵⁰ *Louis Fitch*, *supra* note 63 at 7.

¹⁵¹ *Ibid.* at 1.

Fitch and his associate Michael Garber—another prominent Jewish lawyer—argued the case before the Superior Court of Quebec. The issue was whether the taxes paid by the Jewish community ought to pay for separate schools for Jewish children. They lost at trial and again at the Court of Appeal,¹⁵² which ruled that the legislature had no right to impose the education of Jewish children on either the Catholic or Protestant Board. The Court of Appeal also ruled that these groups should not be obliged to hire Jewish teachers, or to appoint members of the Jewish community to serve on their school boards. Additionally, the Court of Appeal held that the legislature did not have the right to create a separate schools for Jews.¹⁵³ This decision was upheld at the Supreme Court of Canada,¹⁵⁴ so Fitch and Garber appealed the case to the Privy Council.¹⁵⁵ The Privy Council agreed with the Court of Appeal on the first ground, that the religious school boards could not be compelled to accept Jewish students. However, it accepted the second submission, holding that the legislature was empowered to establish a separate school system for non-Catholics and non-Protestants.¹⁵⁶

In every area of community activity, Jewish lawyers like Jacobs, Fitch, and Garber found that their knowledge and energy were in demand for the aid and development of the Jewish community.¹⁵⁷ Nowhere were the services of lawyers more in demand in the 1920s, 1930s, and 1940s than in requests for legal aid with respect to immigration. As political oppression of Jews in Europe increased, the Jewish community was eager to bring its members to Canada. As greater restrictions were placed upon Jewish refugees, Jewish lawyers became more and more indispensable to the community. Vineberg recounted how Samuel Jacobs's office was flooded with the requests of individuals seeking to get their family members out of Europe:

In the office, hordes of people would be there, every non-Parliamentary day. ... These people, whatever lands they came from, trapped down to the Jacobs and Philips office in the Power Building on Craig Street pleading for admission of a wife in Bialystock, a daughter in Kovno, an uncle in Minsk. Whatever it might be, Sam Jacobs had to help. Day after day in the hundreds, and in the thousands, there were demands for immigration.¹⁵⁸

¹⁵² *Hirsch v. Protestant Board School Commissioners of Montreal* (1925), 31 R. de Jur. 440 (Qc. K.B.).

¹⁵³ *Louis Fitch*, *supra* note 63 at 7.

¹⁵⁴ *Reference Re Educational System in Island of Montreal*, [1926] S.C.R. 246, (*sub nom Hirsch v. Protestant Board School Commissioners of Montreal*) [1926] 2 D.L.R. 8.

¹⁵⁵ *Reference Re Educational System in Island of Montreal*, [1928] A.C. 200, [1928] 1 D.L.R. 1041.

¹⁵⁶ *Louis Fitch*, *supra* note 63 at 8. It is interesting to note that Greenshields J., who delivered the judgment of the Court of Appeal, had acted as counsel for the Protestant School Board in *Pinsler*, *supra* note 130, opposite Samuel Jacobs.

¹⁵⁷ See generally *supra* note 63. For example, Jacobs was one of the founders of *The Jewish Times* as well as being one of the first vice-presidents of the Canadian Jewish Congress. He went on to later become President. Jacobs was also extensively involved in the campaign to establish a Jewish Hospital in Montreal. Figler also writes extensively about Fitch's community involvement.

¹⁵⁸ *Supra* note 43 at 11.

Jewish lawyers were also actively involved in the Jewish Immigrant Aid Society, which offered community legal-aid services. They also represented both the Jewish Immigrant Aid Society and the National Refugee Committee of the Canadian Jewish Congress in matters of Canadian immigration regulations and legislation.¹⁵⁹ Jewish lawyers attempted to do whatever was bureaucratically, legally, or politically possible to enable Jews to enter Canada under restricted immigration policies.¹⁶⁰ This commitment among Montreal lawyers is confirmed by the confidential minutes of the Eastern Division Refugee Committee of the Canadian Jewish Congress on November 20, 1938. In attendance were a variety of local lawyers including Benjamin Robinson, Michael Garber, Lazarus Phillips, and Louis Fitch. The extent of the commitment to help fellow Jewish immigrants to Canada is further exemplified in the comments of Benjamin Robinson, Chair of the Refugee Committee:

The Chairman informed those present that the Jewish Immigrant Aid Society has in the past guaranteed and is still guarantor for every immigrant who arrives in Canada that he will not become a public charge. He stated that even today the hospital bills of two immigrants who are confined to hospital, are being paid by the Jewish Immigrant Aid Society.¹⁶¹

They were also involved in helping Jewish refugees because it was their own family members' lives that were in jeopardy:

For them, the newer immigrant sections of the Jewish community, the refugees in question were not distant Jews, but family and friends. For those who had themselves so recently emigrated, it was impossible to deny the appeals from terrified kin in Austria or from those in Eastern Europe who, reading the hand-writing on the wall, begged for escape.¹⁶²

¹⁵⁹ See generally S.M. Lesser, *The Jewish Immigrant Aid Society of Canada: A Study of its Organization and Activities with Specific Reference to the Montreal Office, during the Years 1920-1948, inclusive* (Masters Degree, Montreal School of Social Work, 1950) at 40 [unpublished]. Lesser points out that from the beginning, lawyers were actively involved on the Executive of the Jewish Immigrant Aid Society when it was founded in 1920. See also the Confidential Minutes of the National Refugee Committee of the Canadian Jewish Congress (11 September 1938) in the Canadian Jewish Congress files of Benjamin Robinson. The meeting was chaired by Benjamin Robinson and also included various other lawyers. The result of the meeting: "Following discussion, it was decided to organise a non-sectarian delegation of 15 to 18 members, to interview the government during the week of October 3rd, 1938, in an endeavour to secure cabinet approval to the proposal that a number of refugees be permitted entry to Canada."

¹⁶⁰ Belkin, *supra* note 23, describes the work of various lawyers—including Samuel Jacobs, Lazarus Phillips, Saul Hayes, and Louis Fitch—in helping Jewish immigrants come to Canada.

¹⁶¹ Minutes of the Meeting of the Refugee Committee of the Canadian Jewish Congress (20 November 1938) in the Canadian Jewish Congress files of Benjamin Robinson. See also the Minutes of the Meeting of the Eastern Division of the United Jewish Refugee and War Relief Agencies (4 July 1940) in the Canadian Jewish Congress files of Benjamin Robinson.

¹⁶² I. Abella & H. Trooper, *None is Too Many: Canada and the Jews of Europe, 1933-1948* (Toronto: Lester & Orpen Denys, 1982) at 23. Given the necessity of the refugee issue during the Inter-war years, the generally small size of the Jewish population, and the fact that a majority of the population was immigrant born, most Jewish lawyers would have been confronted to provide help by fam-

Some Jewish lawyers who had professional connections to government officials were able to use those networks to help their families overcome the restrictions. In 1938, Carl Goldenberg was a young Montreal lawyer who worked for the Royal Commission on Municipal Finances. He used his connections to the Minister responsible for the Immigration Branch to help his family, stranded in Vienna, to come to Canada:

Although ... Blair (director of the Immigration Branch) had just hermetically sealed Canada from refugees, an Order-in-Council was soon drawn up for Goldenberg's relatives; the family's departure awaited only final Cabinet approval and routine immigration processing.¹⁶³

What makes Goldenberg's success so impressive is that even before Cabinet approval of the Order in Council, his family was given approval to come to Canada.

Other Jewish lawyers used their positions in Jewish community organizations to influence government officials and policy in favour of increasing the number of Jewish refugees. In 1928, Benjamin Robinson was elected President of the Jewish Immigrant Aid Society—a position he held until 1942. He was also involved in the Canadian Jewish Congress as President of the Eastern Division in 1938, and Honorary Vice-President in 1939. Saul Hayes, the full-time executive director of the refugee programme of the Canadian Jewish Congress was extremely successful in developing refugee programmes that were responsible for rescuing many lives.¹⁶⁴ Jacobs, Fitch, and Lazarus Phillips were also lawyers actively involved in the Canadian Jewish Congress during the 1930s and 1940s. One of the main goals of the Congress during that time—according to Hayes—was to use every means possible to bring Jewish refugees to Canada. Legal knowledge was instrumental for that purpose.¹⁶⁵

Jewish lawyers volunteering with the Canadian Jewish Congress were also involved in promoting human rights. Irwin Cotler has noted that the Canadian Jewish Congress was the first party to be granted intervenor status in a Canadian court case, the 1945 case of *Re Drummond Wren*.¹⁶⁶ Manuel Shacter has emphasized that Jewish lawyers have always been at the forefront of advancing fundamental rights, and that

ily, friends or community members in bringing refugees to Canada. Benjamin Robinson described the influence of his family in developing his commitment to helping Jews immigrate:

[M]y interest in the plight of immigrants was due to my parents who seemed to devote endless days helping their oppressed relatives and friends migrate from Russia to settle in Portland. Our home was a miniature immigrant aid society and impressed me greatly. It was natural for me, therefore, to take an active interest in the work of the Jewish Immigrant Aid Society of Canada (courtesy Archives of the Canadian Jewish Congress).

¹⁶³ Abella & Trooper, *ibid.* at 34.

¹⁶⁴ *Ibid.* at 57.

¹⁶⁵ See S. Hayes "The Canadian Jewish Congress" in C. Spilberg & Y. Zipper, eds., *Canadian Jewish Anthology* (Montreal: Canadian Jewish Congress, 1982) 15 at 21.

¹⁶⁶ [1945] O.R. 778, [1945] 4 D.L.R. 674 (H.C.). See also *Kallen*, *supra* note 36.

this reflects the Jewish belief that "if civil rights are not respected everywhere it will come back to hurt Jews."¹⁶⁷

It is important to emphasize the business cost of the volunteer commitment by Jewish lawyers. Gold explained that Jewish lawyers in Montreal accepted many cases without charging fees "because it was part of the job to do so."¹⁶⁸ In his experience as an articling clerk and junior partner with Marcus Sperber, Gold witnessed Sperber's commitment to the Jewish community:

He was a well-known and respected man in the Jewish community; the honorary counsel (honorary means you are not paid) for many Jewish institutions. ... We did work for all these institutions for nothing. The tradition was that you did it as part of the service to the community.¹⁶⁹

Gold also committed his own time to aid newly arrived immigrants:

A lot of the refugees who managed to get into Canada needed help of one kind or another. The people who had legal questions were referred to our office. Again it was free legal aid every day but especially on Saturdays. ... I used to be there all day Saturday, as a matter of policy, to receive people who needed legal advice and could not afford to pay. ... For the very religious ones who could not travel on Saturday I would stay after sundown or come in on Sunday.¹⁷⁰

Yoine Goldstein describes how the volunteer commitment was apportioned in small firms:

Before Legal Aid, we were responsible for committing 10% of our time to *pro bono* work. Of course, this was an aggregate of 10%, not 10% each, so that the senior lawyers in the firm did less than 10% but the junior lawyers more than made up the difference.¹⁷¹

According to Philip Vineberg, the office of Jacobs and Phillips did refugee and immigration work for free, covering expenses including telephone, long-distance calls, wires, and stenography.¹⁷² The volume of no-cost legal work that Jewish lawyers did for members of their community was substantial. One Montreal lawyer suggests that he was not getting paid for half of the work that he did. That lawyer did consider his volunteer work enjoyable, but he was pressured to accept it from community mem-

¹⁶⁷ *Supra* note 83.

¹⁶⁸ "Lawyers and Judges", *supra* note 51 at 66.

¹⁶⁹ *Ibid.*

¹⁷⁰ *Ibid.* at 67.

¹⁷¹ Interview with Yoine Goldstein at the offices of Goldstein Flanz & Fishman, Montreal (22 January 1999).

¹⁷² *Supra* note 43 at 11:

No immigrant was ever charged a penny for fees, or disbursements or services of any kind; no community organization was ever charged a cent and no community campaign was ever conducted to defray the expense. It was Sam Jacobs and Laz Phillips who were paying the bills for services which they were rendering.

bers like the rabbi who would remind him that “after all, you are the lawyer of the synagogue.”¹⁷³

In other circumstances, Jewish lawyers sought out and carried cases at no charge to their clients. For example, in 1932, Joseph Cohen—a prominent Jewish litigator—defended a Jewish merchant in Lachine who had lost his business as a result of anti-Semitic statements published in *Le Goglu*, *Le Miroir*, and *Le Chameau* under the editorship of Adrien Arcand, a well-known fascist. Those statements encouraged attacks on Jewish businessmen and boycotts of their products under the slogan: “*l’achat chez nous*”.¹⁷⁴ Cohen obtained \$1,000 in damages plus costs against the owner of the newspapers, Joseph Ménard. However, he lost the criminal case on appeal.

Jewish lawyers often felt committed to their community because, as Gold stated, it was their duty to serve.¹⁷⁵ Goldstein considered this involvement as a social and religious obligation for a Jew to serve: “It represents a basic commandment of Jewish faith to pursue justice for those who need help.”¹⁷⁶ Vineberg describes this relationship of the Jacobs and Phillips firm to its community in terms of the “natural concern” that its lawyers had “with all the troubles of the entire Jewish community as it then was.”¹⁷⁷ In return for this commitment, they were able to meet others who were involved with this work, and make connections that ultimately helped to advance their legal practice.

IV. Jewish Lawyers: 1950 to the Present

The post-war period brought dramatic changes to the Jewish community in Canada. The international community and Canadian Jews successfully pressured the federal government to accept greater numbers of Jewish refugees from Europe. In addition, in the 1950s, the Canadian government began to change its policies in order to encourage immigration. Such changes were connected to the post-war economic boom, the needs of the labour market, the will to reunite relatives, and general hu-

¹⁷³ *Occupational Selection*, *supra* note 42 at 1.

¹⁷⁴ *Rome*, *supra* note 66 at 71.

¹⁷⁵ “Lawyers and Judges”, *supra* note 51 at 67.

¹⁷⁶ Goldstein, *supra* note 171. Goldstein’s conception of this social and religious obligation for Jewish lawyers is further explained in the following:

The Jewish Philosopher, Kaplan, in the late 1930s started the Reconstructionism movement of Judaism. He said being Jewish in the twentieth century was defined more by belonging than believing. The religious element of Judaism was not as important as belonging. Therefore, Jewish lawyers involved in a secular profession defined their Judaism by being involved in the community, it doesn’t mean that they were not involved in the religious dimension, just that the focus became on belonging manifested through commitment to the community.

¹⁷⁷ *Supra* note 43 at 10. Casper Bloom, *supra* note 49, also reflected on the natural concern for the community by noting that: “A recurring theme of the Jewish Community has been to take care of our own, to protect ourselves from others, to rely on ourselves, support each other, and especially those in need.”

manitarian concerns.¹⁷⁸ Establishment of more favourable refugee and immigration policies provided for the demographic expansion of the Jewish community in Canada.¹⁷⁹ With a growing ethnic community, Jewish lawyers became better positioned to take advantage of the strong post-war economy.

Post-war economic expansion brought a transformation in the character of Canadian legal practice. An increase in the number of practising lawyers represented one characteristic of this transformation. Lawyers in Canada increased in number between 1951 and 1986 by 373%, from 9,038 to 42,710.¹⁸⁰ Between 1951 and 1986, the number of lawyers in Quebec increased by 300% from 2,669 to 10,780.¹⁸¹ Jewish lawyers doubled their number from 6.6% of the total number of lawyers in Canada in 1961, to 13% in 1971.¹⁸² The Jews of Montreal remained highly represented in 1981, and accounted for 13% of all Montreal lawyers.¹⁸³ According to the 1991 census, the high representation of Jews in the profession continues to this day.¹⁸⁴

Another major change in legal practice in the post-war period was a decrease in self-employment. The self-employed lawyer had traditionally been the predominant model of legal practice, but by 1986, Statistics Canada found that lawyers were evenly divided between those who were self-employed and those who received salaries, most often as public- or private-sector employees.¹⁸⁵

The decrease in self-employment was also related to an increase in law firm size. Increases in the number of practising lawyers also corresponded with an increase in the size of law firms.¹⁸⁶ Ronald Daniels has reported that since 1960, Canadian law firms have grown exponentially: "Of the 50 largest Canadian firms, none of the firms had more than 100 lawyers in 1960 or 1970—and in 1980, one firm had 100 lawyers but by 1990, 19 firms had more than 100."¹⁸⁷ The eleven largest law firms in Montreal had a total of only 132 lawyers in 1962, whereas in 1989 those same firms had a total

¹⁷⁸ J. Kage, "Able and Willing to Work: Jewish Immigration and Occupational Patterns in Canada" in Porter, *supra* note 91 at 42-43.

¹⁷⁹ See generally J. Torczyner & S. Brotman "The Jews of Canada: A Profile from the Census" in D. Singer, ed., *American Jewish Year Book 1995* vol. 96 (New York: The American Jewish Committee, 1995) 227.

¹⁸⁰ D. Stager, *Lawyers in Canada* (Toronto: University of Toronto Press & Statistics Canada, 1990) at 144.

¹⁸¹ *Ibid.* at 145.

¹⁸² *Ibid.* at 154. The identification of "Jewish" as an ethnic category was not present in the 1981 census.

¹⁸³ *Ibid.* at 156.

¹⁸⁴ *Ibid.* at 236.

¹⁸⁵ See C. McKie, "The Law: A Changing Profession" (1986) 1 *Can. Soc. Trends* 28 at 30: "It is apparent that the ratio of salaried to self-employed lawyers is increasing steadily. The number of self-employed lawyers dropped from 68% of the total in 1961 to 51% in 1981."

¹⁸⁶ R. Daniels, "Growing Pains: The How and Why of Law Firm Expansion" (1993) 43 *U.T.L.J.* 147 at 156.

¹⁸⁷ R. Daniels, "The Law Firm as an Efficient Community" (1992) 37 *McGill L.J.* 801 at 829.

of 817 lawyers.¹⁸⁸ The number of Quebec lawyers who practised as sole practitioners declined from 23% to 12% between 1967 and 1987, while those in larger firms (*i.e.*, twenty lawyers or more) increased from 6% to 23% over the same time period. In 1982, over 25% of the lawyers working in Montreal were employed in large law firms. The increase in the size of law firms has resulted in a few firms being responsible for a large portion of the total fees collected by lawyers, while a large number of small firms get a disproportionately smaller share of the total fees for legal services.¹⁸⁹

An analysis of the impact that changes in law firm size had on Jewish lawyers must centre on their struggles to enter larger firms in the 1960s and 1970s. A 1968 socio-economic study commissioned by the Quebec Bar found that ethnic identity influenced the size of the firm in which one was employed.¹⁹⁰ The average lawyer to office ratio was only 4:1 for Jewish lawyers, 5:4 for Francophone lawyers, and 10:2 for Anglophone lawyers.¹⁹¹ The large average office size ratio for Anglophone lawyers can be explained by the concentration of Quebec's English community in Montreal, where the larger law offices predominate. The lower average office size ratio for French-speaking lawyers reflects the fact that, outside of Montreal, French-speaking lawyers predominate in smaller Quebec towns and cities. However, given that the Jewish community was found to be almost exclusively concentrated in the greater Montreal area (95% of the community), the average firm size ratio of Jewish lawyers is extremely low in comparison to that of Anglophone firms—especially when one considers their high representation in the legal profession.¹⁹² Lower average firm size for Jewish lawyers was also found in a 1971 study of the Toronto legal profession where data showed that Jewish lawyers were twice as likely as the overall sample to engage in a sole practice.¹⁹³ The 1971 Toronto study found that 69% of Jewish lawyers practised in law firms with less than five practitioners, while only 20% practised in firms with over six practitioners.

A 1960 Osgoode Hall graduating class study found results similar to those in Montreal: “[T]here are statistically very few Jews in the medium-sized and large firms as compared to Protestants.”¹⁹⁴ The results of the 1960 Osgoode Hall study were confirmed by the 1971 Toronto study of the legal profession which found that even though 40% of Jews had grades in the top 10% of their class, only 8% of Jews worked

¹⁸⁸ McKie, *supra* note 185 at 156.

¹⁸⁹ Torczyner & Brotman, *supra* note 179 at 6, 171-72.

¹⁹⁰ Bélanger, Chabot, Nobert, Angeers et associés Inc., *Les Avocats Du Quebec: Etude socio-économique* (Montréal: Cadres Professionnels Inc., 1968) at 45.

¹⁹¹ *Ibid.*

¹⁹² *Ibid.* at 135.

¹⁹³ H. Arthurs, J. Willms & L. Tamen, “The Toronto Legal Profession: An Exploratory Study” (1971) 21 U.T.L.J. 498 at 517-18.

¹⁹⁴ *Study of 1960 Osgoode Hall Graduates in the City of Toronto, Interim Report* (Toronto: Osgoode Hall Law School, 1967) at 4 [hereinafter *Study of 1960 Osgoode Hall Graduates*], quoted in Arthurs, Willms & Tamen, *ibid.* at 518.

in the large law firms.¹⁹⁵ In contrast, Protestants represented 27.3% of those with grades in the top 10%, but over 30% of those who worked in large law firms.¹⁹⁶ The 1960 Osgoode Hall study concluded that 25% of Jewish respondents felt they had been refused jobs for religious reasons, and that Jews avoided Protestant firms “largely because they feel efforts to gain employment there would be futile.”¹⁹⁷ Yoine Goldstein, in his personal experience, reinforced these findings:

I was one of the top three in my class with a doctorate and still was not even considered by larger firms when I started to look for employment in 1961. In the early 1960s, the large firms were not hospitable to Jewish lawyers. You had no hope in firms like Ogilvy Renault and McMaster Meighen. It just simply didn't happen.¹⁹⁸

The reason for the lower representation of Jews in larger law firms is related to the continuing effects of discrimination encountered by Jews.¹⁹⁹

Exclusion from larger law firms denied Jews access to the larger fees that come from business opportunities available in larger firms. The result was lower wages for Jewish lawyers. In 1968, Jewish lawyers in Quebec averaged an income of \$16,020 a year while Anglophone lawyers averaged \$18,260 and Francophone lawyers averaged only \$14,750 a year.²⁰⁰ The lower salaries of Jewish lawyers *vis-à-vis* Anglophones are magnified when one considers that most Jews in Quebec worked in the city of Montreal where the average lawyer's salary was \$21,250. One impact of lower wages was the inability to afford office supplies and machines. Jewish lawyers in Quebec were less likely to have calculating, accounting, or photocopying machines than their Anglophone counterparts.²⁰¹

Another effect of Jewish under-representation in larger firms was their inability to gain access to corporate directorships and managerial opportunities that arose from connections between corporations and larger firms. Only 2% of Jewish lawyers in Quebec were directors of a bank or financial institution in 1968.²⁰² Only 1% of Jewish lawyers in Quebec were directors of any company valued at over five million dollars. Jews were under-represented in every category of directorship. In 1975, five Jewish lawyers entered the economic elite through the legal profession—three of whom worked for the firm of Phillips & Vineberg in Montreal—thus accounting for only

¹⁹⁵ Arthurs, Willms & Tamen, *ibid.* at 521.

¹⁹⁶ *Ibid.*

¹⁹⁷ *Study of 1960 Osgoode Hall Graduates*, *supra* note 194 at 5, quoted in Arthurs, Willms & Tamen, *supra* note 193 at 518.

¹⁹⁸ *Supra* note 171.

¹⁹⁹ See J. Hagan, M. Huxter & P. Parker, “Class Structure and Legal Practice: Inequality and Mobility among Toronto lawyers” (1988) 22 *L. & Soc. Rev.* 9 at 34-36.

²⁰⁰ Bélanger, Chabot, Nobert, Angeers et associés Inc., *supra* note 190 at 167.

²⁰¹ *Ibid.* at 162.

²⁰² *Ibid.* at 151.

four prominent directorships.²⁰³ Even where Jewish lawyers were directors of corporations, Wallace Clement has observed that many of these corporations were themselves owned by Jews.²⁰⁴

Although Jews were more likely than lawyers from other ethnic groups to be members of the elite, they were not an integral part of it. Rather, according to Clement, the Jewish elite “are more correctly understood as an elite of the Jewish community, separate yet interlocking in a peripheral way with the Anglo-dominated elite.”²⁰⁵ The non-participation of Jewish lawyers in Quebec’s non-ethnic economic associations in 1968 is evinced by the fact that only 1.9% of Jewish lawyers were active in Chamber of Commerce activities, compared with 7.3% of Anglophone lawyers and 13.6% of Francophone lawyers.²⁰⁶

Even though Jewish lawyers were under-represented in the corporate elite—according to a 1968 Quebec Bar study of the legal profession—they were considerably involved in corporate legal business and in their own enterprises.²⁰⁷ In 1968, Jewish lawyers in Quebec were more likely than Francophone or Anglophone lawyers to have been owners of small businesses valued at less than \$100,000. They were also more likely to have been owners of property. In addition, Jewish lawyers were preparing considerably more contracts than Francophone or Anglophone lawyers. They were three times as likely to have been involved in preparing contracts as Francophone lawyers, and almost 50% more likely than Anglophone lawyers. Jewish lawyers were also as likely as Anglophone lawyers, and more likely than Francophone lawyers, to have had experience with economic transactions that totalled more than \$25,000. A similar trend was evident in the results of a Toronto study that found Jewish lawyers under-represented in the corporate-commercial class, but over-represented in the managerial bourgeoisie, and as small employers.²⁰⁸

Morton Weinfeld has suggested that the ethnic sub-economy may help explain how Jewish lawyers were able to be active in corporate legal work even though they were under-represented in involvement with large corporate clients.²⁰⁹ Weinfeld’s research found that 35% of Montreal Jews indicated that “all or most” of their associates—*i.e.*, employers, employees, clients—were Jewish. Given that at the time only 4% of Montreal’s population was Jewish, Weinfeld concluded that a concentration of business exists within the ethnic sub-economy. Even more important is Weinfeld’s finding that 51.4% of those whose occupation was considered “high” (including law-

²⁰³ W. Clement, *The Canadian Corporate Elite* (Toronto: McClelland & Stewart Limited, 1975) at 155, 180, 237-38.

²⁰⁴ *Ibid.*

²⁰⁵ *Ibid.* at 238.

²⁰⁶ Bélanger, Chabot, Nobert, Angeers et associés Inc., *supra* note 190 at 153.

²⁰⁷ *Ibid.* at 151.

²⁰⁸ Hagan, Huxter & Parker, *supra* note 199 at 36.

²⁰⁹ M. Weinfeld, *The Ethnic Sub-Economy: Explication and Analysis in a Case Study of the Jews in Montreal* (Montreal: McGill University, 1979).

yers), and 52.5% of those whose income was over \$20,000 had all or most of their clients as Jews. Weinfeld's findings suggest that Jewish lawyers were involved in the expanding ethnic sub-economy and benefitting from Jewish business clients.

The involvement of Jewish lawyers with their ethnic group was not only apparent in business activities, but also extended to political and community endeavours. Jewish lawyers in Quebec were found by a 1968 Quebec Bar study of the legal profession to be more active than Francophone or Anglophone lawyers in politics and community affairs. In 1968, 24.3% of Quebec Jewish lawyers reported that they were involved in a national or ethnic association. Such a finding is rather high when one considers that only 2.7% of Anglophone and 6.7% of Francophone lawyers were involved with similar organizations.

Jewish lawyers also had the highest involvement in religious associations.²¹⁰ Those findings indicate the continuing importance of the connection between Jewish lawyers and their ethnic and religious community. The establishment of a Jewish state, and the large number of Holocaust survivors living in Canada—especially Montreal—provided new ethnic-group identifiers that continued to reinforce the bond between Jewish lawyers and their community.²¹¹ In addition, Jewish lawyers expressed greater interest than their peers in Canada's national question, as well as in international matters.²¹² The concentration of lawyers in the leadership of the Canadian Jewish Congress visibly demonstrates their interest in representing the Jewish community in the national and international arena.²¹³ Jewish lawyers in Quebec are also more likely to provide free services and time for charities and volunteer organizations, and to contribute their time to legal aid activities. In fact, a larger percentage of Jewish lawyers—55%—volunteer their legal knowledge to fellow ethnic-group lawyers than either Francophone—36%—or Anglophone—25%—lawyers in Quebec.²¹⁴

During the 1980s and 1990s, Jewish lawyers have been successful in reversing many of the negative effects of anti-Semitism that excluded them from participation in economic opportunities provided by changes in legal practice. One indication of that success is the increase of Jewish lawyers entering large law firms:

²¹⁰ Bélanger, Chabot, Nobert, Angeers et associés Inc., *supra* note 190 at 154.

²¹¹ For more information on the particular impact of Holocaust survivors on community development see M. Giberovitch, "The Contributions of Holocaust Survivors to Montreal Jewish Communal Life" (1994) 26 *Can. Ethnic Stud.* 74.

²¹² Bélanger, Chabot, Nobert, Angeers et associés Inc., *supra* note 190 at 155.

²¹³ S. Rosenberg, *The Jewish Community of Canada: In the Midst of Freedom*, vol. 2 (Toronto: McClelland & Stewart Limited, 1971) at 49. Rosenberg discusses the leadership of Michael Garber, Q.C., Monroe Abbey, Q.C., and Saul Hayes, Q.C., in the running of the Congress.

²¹⁴ Bélanger, Chabot, Nobert, Angeers et associés Inc., *supra* note 190 at 136, 138.

It is only within the last two and a half decades that the large firms have opened for Jewish lawyers. The mobility of Jewish lawyers within these firms has been dramatic and an encouraging example of the profession's willingness to change.²¹⁵

A study of the Toronto legal profession found that an equal proportion of Jewish and Protestant lawyers hired in the 1980s worked for large—33.4% and 33.5%—and elite—15.7% and 18.9%—firms.²¹⁶ A corollary of the higher numbers of Jewish lawyers in larger firms has been their greater participation in the economic and corporate elite.²¹⁷

The success of the Montreal Jewish lawyer's employment in large law firm practice is a result of changes that occurred beginning in the late 1960s and early 1970s. According to Yoine Goldstein, the first sign of change occurred when Ogilvy Renault hired Charles Gavsie, a former Deputy Minister of Finance, to head its tax department in the late 1960s.²¹⁸ In 1967, Ogilvy Renault also hired Casper Bloom as an articling student.²¹⁹ This represented the first time that a Jewish articling student was hired by a large Montreal firm.²²⁰ According to Bloom, these changes in hiring practices reflected the firm's adaptation to the surrounding societal changes that were engulfing it:

²¹⁵ J. Hagan, "Transitions in the Legal Profession" (1993) 32 L. Soc. Gaz. 91 at 99.

²¹⁶ Hagan, Huxter & Parker, *supra* note 199 at 9. Reported for the first time is systematic evidence that Jews and Protestants have entered the large and elite law firms at comparable rates (*ibid.* at 52), but note also that even with these new successes, Jews still only represent one-seventh of the capitalist class (*ibid.* at 45). Jews are still catching up for discrimination encountered in the past (*ibid.* at 45).

²¹⁷ See B. Ogmundsen & J. McLaughlin, "Trends in the Ethnic Origins of Canadian Elites: The Decline of the BRITS?" (1992) 29:2 Can. Rev. Sociology & Anthropology 227. Note that there still exists a controversy among sociologists as to the extent of improvement in the participation of ethnic minorities in the economic and corporate elite.

²¹⁸ *Supra* note 171.

²¹⁹ *Supra* note 49. Bloom describes how his hiring helped create opportunities for Jewish lawyers that followed him:

While here at Ogilvy's I have helped to create new opportunities for Jewish lawyers. My presence has broken the ice and made it easier for other Jewish lawyers. At Ogilvy's I became the consultant on Jewish matters. I feel that my presence and success here at Ogilvy has helped to make it possible for other Jewish lawyers to follow the opportunities in larger Montreal firms.

²²⁰ In Bloom's opinion, his hiring was considerably controversial for the firm. Even with the advent of opportunities for Jewish law students at large law firms, Bloom noted that it was still difficult to get a permanent position and that most were let go once their articling period was over:

In the late 1960s, there were very few Jews who did what I did, it took a while longer even after I got my position before Jews began to join large firms. It wasn't until ten years after my hiring that Jewish lawyers really started to be considered by larger Montreal law firms. I didn't experience Jewish hirings until at least ten years after my own hiring (*ibid.*).

In the 1970s, changes in attitudes began to open the doors to larger law firms not only for Jews but also for Francophones. The changes in attitude can be partly related to the Quiet Revolution that took place in Quebec during the late 1960s. Law firms couldn't avoid being affected. The Francophone influence on traditionally Anglophone law firms began to grow considerably. The Francophone influence became strongly felt. Once the Anglophones adapted to the new Francophone influence it became easier to adapt to other ethnic groups like the Jews. Anglophone firms were forced to open their doors to those who were different from them, whether Francophone or Jews.²²¹

However, Bloom notes that the opportunities for Jewish lawyers were easier if they had no physical or cultural characteristics distinguishing them as Jewish:

It was even more difficult if you were an Orthodox Jew. I know that it would have been harder for me if I was Orthodox. Being Orthodox, one's cultural background is different from the mainstream culture, one's way of life is different, one has physical distinctions that are visible. For me, my lifestyle was not that different from the majority group, and no physical distinction could be physically made, but if I was Orthodox it would have been difficult if not impossible to get hired. However, things have changed dramatically when one considers that Greg Borden, an Orthodox Jew who was a gold medallist from McGill University in 1988, was hired by Ogilvy Renault. He was the first Orthodox Jew hired. It took some adjusting for many lawyers in the office but he is perfectly accepted.²²²

Yoine Goldstein attributes the increased hiring of Jewish lawyers by large law firms to the growing presence of Jewish businesses and corporations:

You had influential Jewish business clients beginning to utilize non-Jewish law firms. Therefore, some firms believed that it was good public relations as well as goodwill to have Jewish lawyers at the firm because they had Jewish clients.²²³

However, Bloom emphasizes that even when Jews began to be hired by non-Jewish law firms, they had to work harder to succeed because their Jewish identity was an obstacle:

I feel that I had to work harder in my first job in law because I was a Jew in order to prove myself, in order for people to accept me. I had to work harder to earn my way because I was a Jew. There was an objective evaluation on my part, that I had to do it, that I had to work harder, but I had to do it to succeed.²²⁴

Even with the success of Jewish lawyers entering the large firms, it is important to emphasize that they still encountered episodes of anti-Semitism.²²⁵

²²¹ *Ibid.*

²²² *Ibid.*

²²³ *Supra* note 171.

²²⁴ *Supra* note 49.

²²⁵ Goldstein, *supra* note 171, recalls an example of anti-Semitism from his own personal experience:

In the late 1960s and 1970s, anti-Semitism and discrimination against Jews was on the wane, but there were still episodes. I remember in the early 1980s a case I pleaded

The success of Jewish lawyers, however, has paralleled that of the Jewish community. The Montreal Jewish community, in particular, has developed into one that is internationally famous for providing the best social and community services per capita of any Jewish community in the world.²²⁶ The connection between Jewish lawyers and their community still remains strong to this day. Jewish lawyers regularly participate in the provision of volunteer services as honorary executives on boards of Jewish associations and organizations.²²⁷ They are also involved as donors and fundraisers for Jewish organizations.²²⁸

Irwin Cotler has written that one of the areas of direct involvement and leadership by Jewish lawyers is in the area of promoting human rights causes, especially those related to Jewish issues:

The nature of the Jewish agenda requires Jewish lawyering. Over the last twenty years the agenda has included bringing Nazi war criminals to justice, providing input in the development of anti-hate legislation and defending its constitutionality in the courts, and combating Holocaust denial. It has also included combating the teaching of Christian religious education in public schools, and using the courts to defend public funding for Jewish education.²²⁹

Other examples of Jewish lawyers' defence of human rights causes include the court battles of Manuel Shacter during the 1970s that eventually eliminated the drastic obscenity laws in Canada.²³⁰ Yoine Goldstein was also actively involved in the successful court battles against the *Charter of the French Language*,²³¹ which attempted to reduce the language rights of English-speaking Quebecers in the judicial system.²³²

where one of the lawyers made an anti-Semitic remark to another lawyer before I got there in the morning. The other lawyer was so incensed he told me. When I heard the remark I told the lawyer who had made it that I was going to tell the Judge what he had said. The Judge hearing the case was Jewish. We settled shortly afterwards on very good terms for my client. I later received a phone call from the Senior Partner at the firm where this individual worked who informed me that if I wanted to file a complaint with the Barreau about the remark, he would support me.

²²⁶ See E. Paris, *Jews: An Account of their Experiences in Canada* (Toronto: Macmillan of Canada, 1980) at 98. See also S. Rosenberg & J. Jedwab, "Institutional Completeness, Ethnic Organizational Style and the Role of the State: The Jewish, Italian and Greek Communities of Montreal" (1992) 29:3 *Can. Rev. Sociology & Anthropology* 266.

²²⁷ Kallen, *supra* note 36.

²²⁸ See generally D. Elazar & H. Waller, *Maintaining Consensus: The Canadian Jewish Polity in the Postwar Period* (Lanham, Md.: University Press of America, 1990) at 132.

²²⁹ Kallen, *supra* note 36 at 44.

²³⁰ See "Shacter to take reins of Quebec Congress" *The Canadian Jewish News* (30 April 1992) 6. Shacter explains the struggle in attacking Canada's obscenity laws. The result of his Supreme Court victory with Frank Scott was that for the first time, banned literature like D.H. Lawrence's *Lady Chatterley's Lover* and *Playboy* were allowed in Canada (*supra* note 83).

²³¹ R.S.Q. c. C-11.

²³² See "Attorney Yoine Goldstein awaits ruling on Bill 101" *The Canadian Jewish News* (24 February 1978) 2.

Jewish lawyers are also engaged through Jewish community organizations, like the Canadian Jewish Congress, in advancing human rights. For example, as President of the Quebec Region of the Canadian Jewish Congress, Manuel Shacter was often outspoken in protecting the interests of all minority groups. He defended Quebec's minority groups against racism, governmental discrimination, and has promoted the dismantling of barriers that adversely affected their equal participation in society.²³³

The Jewish identity continues to be expressed and reinforced through membership and involvement in Jewish lawyers' associations. These associations include the Lord Reading Society, the International Jewish Lawyers' Association, the Canadian Chapter of the International Jewish Lawyers' Association, and the Canadian Jewish Law Students' Association. Cotler considers these associations as instruments of positive Jewish affirmation. They provide a framework for Jewish self-expression and identification. Cotler also believes that these associations are important because they help to strengthen the bonds to the Jewish community at a time when the corporate law firm culture is decreasing the time that Jewish lawyers are able to commit to communal activities. The Lord Reading Society has responded to the need to positively affirm the Jewish identity by inaugurating a Human Rights Lecture and a Lecture in Jewish Legal Studies.

What has changed in the relationship between Jewish lawyers and their community is the character of involvement of lawyers as administrators and managers of Jewish organizations. Jewish lawyers traditionally participated in the direct administration of Jewish organizations in combination with their legal practice. However, with the increased involvement of Jewish lawyers in larger law firms—where control over their practice and time is limited, and commitments to the hierarchical structure of those organizations is essential for advancement—the ability to directly participate in the administration of community organizations has diminished.²³⁴ In addition, as those community organizations have expanded and become more complex in structure, they have necessarily required a greater commitment, and have had to employ full-time professional staff to manage their activities. Jewish lawyers, in turn, are sometimes hired as managers of these organizations. The result has been the establishment of a new form of bureaucratic elite within the Jewish community that is responsible for administering the affairs of the community. These new forms of employment afford a considerable amount of independent authority in establishing pri-

²³³ The following examples provide an illustration of the role that Jewish lawyers like Manuel Shacter played in advancing minority group interests through their participation in agencies like the Canadian Jewish Congress: Shacter defended Quebec's minority groups against negative comments made by Quebec's *chargé de mission*. See "Fire Diplomat for ethnic remarks: CJC" *The [Montreal] Gazette* (30 November 1994) A5. He strongly attacked racism in the press. For example, he denounced the July 31, 1992 edition of *Photo-Police* entitled "Les Blancs en ont assez des Noirs!": see *Canadian Jewish News* (13 August 1992) 8.

²³⁴ For more information, see F.M. Kay & J. Hagan, "Changing Opportunities for Partnership for Men and Women Lawyers During the Transformation of the Modern Law Firm" (1994) 32 *Osgoode Hall L.J.* 414.

orities for the Jewish community. These positions effectively represent a new domain for legal professionals within the Jewish community.

Conclusion

In the nineteenth century, the bars of Upper and Lower Canada were congregations of predominantly Anglo-Protestant families that encouraged dynastic affiliations. As the profession developed and responded to the economic and technological advances of the late nineteenth and early twentieth centuries, these dynastic tendencies remained. However, the role previously played by the bars in promoting the homogeneous character of the profession was appropriated by corporate law firms. By excluding immigrants who came to Canada during the great wave of ethnic migration, the Anglo-Protestant elite attempted to control entrance to the legal profession in order to preserve this homogeneous character.

Even those ethnic lawyers who attained entrance to the legal profession were excluded from professional associations, and their legal business opportunities were limited. Canadian Jews have historically struggled to take advantage of developing opportunities in the legal profession, partially due to the anti-Semitic attitudes and behaviour that they encountered. They were highly represented in the legal profession, but were excluded from new economic and professional opportunities available as a result of the expanding industrial economy. Jewish lawyers in Montreal responded by committing themselves to the protection and development of their ethnic community. They relied on ethnic networks and connections to find legal business. Jewish lawyers also sought legal business in areas that were undervalued. They also developed their own business interests at the same time.

Jewish lawyers helped promote their community's perception that the legal profession was a vehicle, and not a barrier, for attaining justice. They served as role models for younger members of their community who sought to enter the profession, and also ensured that the interests of their community were protected at the legislative and executive levels of government. The volunteer commitment demonstrated by Jewish lawyers to their community has been under-appreciated in academic literature and clearly represents an important dimension of legal practice that merits further study.

Historical analysis of the legal profession has tended to underestimate the influence of characteristics such as ethnic identity on the character and practice of law. In the case of the Jewish community in Canada, it is evident that Jewish identity dramatically affected how Jewish lawyers practised law. This analysis of Montreal Jewish lawyers has also demonstrated how the practice of law was tied to important extra-professional ethnic group responsibilities and values. Understanding those responsibilities and values is essential if we are to appreciate the influences that have affected legal practice for a Jewish lawyer in Canada.
