

Canadian Jewry And Their Struggle For An Exemption In The Federal Lord's Day Act of 1906

Part I

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Résumé

Sheldon Indig, auteur de l'article intitulé: "*Canadian Jewry and their struggle for an exemption in the Federal Lord's Day Act of 1906*" présente en une première partie, les tenants et aboutissants de cette lutte.

A l'origine, il y eut un projet de loi proposé au gouvernement de Sir Wilfrid Laurier par un groupe de personnes désireux de faire respecter le dimanche, Jour du Seigneur.

Il y eut une réaction de la part des dirigeants et responsables de la Communauté Juive du Canada sur les épaules de qui reposait l'observance du Chabbat et des rites religieux des Juifs. Nous savons que les deux courants religieux majeurs au Canada sont le protestantisme et le catholicisme.

Jusqu'à la fin du XIX^e siècle, les manifestations d'antisémitisme furent pratiquement quasi inexistantes au Canada. Ce ne fut cependant pas le cas pour le début du XX^e siècle. En effet, les premières décennies de celui-ci, constituèrent une époque d'épreuves pour les Juifs du Canada et, le Judaïsme canadien s'en est ressenti.

C'est dans un tel climat, que vint se greffer le loi fédérale de l'Ober-sance du Jour du Seigneur. Ce problème renforça plus que jamais les Juifs et le Judaïsme canadien et je cite: "tous les organismes Juifs étaient conscients de ce dénominateur commun: être Juif, et, veillaient aux besoins de l'ensemble de la Communauté."

Pour la première fois au Canada, le Judaïsme allait renforcer son front et s'unir, ne faisant qu'une seule entité. Devant les attaques décochées par le Révérent J. Edgar Hill à l'endroit des Juifs, les réponses ne se firent pas attendre. Une répartie d'un des dirigeants eut le don de faire remarquer

l'attitude hypocrite du Révérend Hill envers les Juifs ce dont personne ne le soupçonnait.

Pendant toute la première partie, Sheldon Indig nous montre de quelle façon les dirigeants Juifs eurent à répondre aux attaques et à reprendre point par point les problèmes soulevés de façon à pouvoir assurer au Judaïsme une perennité.

La délégation Juive "ne s'est pas seulement limitée à écrire des communiqués, mais tenta d'obtenir l'appui de législateurs en établissant des contacts personnels".

The origins of Canadian Sunday law dates back to colonial times. The English Lord's Day Act, 1677, *An Act For the Better Observation of the Lord's Day, commonly called Sunday*, was the basis of Sunday law in the British North American colonies¹ prior to and after Confederation. By the first decade of the twentieth century most provinces had passed legislation the same or similar to the laws of Great Britain.² The purpose of this legislation was to provide for the due observance of the Lord's Day by curtailing activities which might profane Sunday.³ Already public abuse of these regulations was rampant in Canada, and many were forced to work seven days a week, each working day of which was unconscionably long.

In the years immediately following Confederation, there were many unsuccessful attempts to enforce the observance of Sunday as a day of rest.⁴ The establishment of the Lord's Day Alliance of Canada in 1888⁵ marked the beginning of an intense and serious struggle for adequate Dominion-wide Sunday observance legislation.

Parliament considered itself the guardian not only of the nation's political life, but of its moral life as well. A day of rest was considered necessary to maintaining a civilized and ethical population, and, since the majority of the people were first-day Christians, it was felt that there should be a coalition of the secular and religious aspects of the ruling majority, for the general good of the community.⁶ Therefore, joining all the concepts upon which Parliament legislated, the enactment was consistent in the priority of providing a weekly day of rest for the benefit of the nation under its jurisdiction of criminal law.

Exceptions had to be made for those unable, for the good of the general community, to abide by the legislation. In this light, the secular interests and Canadian political jurisdictional interests received exemptions. The former ranged from small time businessmen to large industrial magnates,

many of whom received an exemption under "the works of necessity or mercy."⁷ And to balance the above out, so as to maintain consistency with the purpose, principle and directive of the measure, labour interests were taken into consideration. To accommodate those who worked because of the secular exemptions, Parliament made provision which allowed these toilers another day during the week as their day of rest.⁸ The jurisdictional exemptee was conciliated with the recognition of provincial rights in the enactment. The provinces were allowed to regulate activity on the national day of rest which would be in keeping with the prevailing conditions of their respective area.⁹

Other interests which sought exemptions were "the easiest to dispose of,"¹⁰ namely the religious interests. In this consideration, Canada was divided into three sections; Protestants, Catholics and Non-conformists.¹¹ The first two groups had their religious conscientious convictions taken into consideration within the measure. The former was represented by the Lord's Day Alliance who drafted the bill which the Government adopted as its measure.¹² The latter received an exemption under the principle of provincial rights.¹³ Here, the representatives from Quebec protested against the attempt of a British Protestant Ontario in forcing their views upon the French Canadian Roman Catholics who were dominant in Quebec.¹⁴ Therefore, both Protestants and Catholics, the two major religious interests in Canada, had their conscientious convictions recognized.

The third major group which sought an exemption was the Non-conformists. This group rallied for an exemption because of the effects which the bill had on their secular lives, that of financial-economic material conditions which directly correlated with their religious practices. They were a minority in Canada and not large or significant enough to either receive an exemption under the works of necessity or mercy or under the jurisdictional auspices of provincial rights. Since their contentions were founded upon purely religious motives, they sought to be exempted under the auspices of respect for a dissenting religious minority's conscientious convictions. Under this consideration fell the Jewish Exemption Issue within the Lord's Day Act of 1906.¹⁵

II

THE STATUS OF CANADIAN JEWRY AND FEDERAL SUNDAY LAW

By 1906 the Jew living in Canada fared much better than his brethren

throughout the world. Jews were citizens of Canada, having political and civil equality with their non-Jewish neighbours through their “Magna Charta”¹⁶ the Bill of Rights¹⁷ of 1832. In that year, the Quebec colonial legislature passed an *Act to declare persons professing the Jewish Religion entitled to the rights and privileges of other subjects of His Majesty in this Province*.¹⁸ None of the other colonies in British North America or Canada passed a similar enactment because Jewish rights were never questioned.¹⁹ This may be attributed to the general acceptance of Jewish rights through English common law.²⁰ Also, legal equality among all religious denominations and the fundamental freedoms of religion, conscience and worship were guaranteed to the Jews by the colony of Canada in 1851.²¹ These guarantees finalized Jewish emancipation.²² Other sectors of Canada accepted this policy through common consent and English common law.²³ Therefore, legally, the Jew was able to take advantage of all the opportunities afforded to him in Canadian secular life. At the same time, he was able to express his Jewishness as he saw fit, either in public or private. The Jew was a first-class citizen with rights, privileges and protection.

Until the end of the nineteenth century, expressions of anti-semitism were non-existent in Canada. The twentieth century, however, witnessed a rise of anti-semitism.²⁴ One of the major causes was the physical fact of the new and large Jewish immigration which was not a quickly passing phenomenon.²⁵ The Jewish population increased from 2,393 in 1881 to 16,401 in 1901, and to 42,754 in 1906;²⁶ the largest percentage of Jewish immigration took place between 1901 to 1906.²⁷ Out-numbering the relatively assimilated German Jews, the East European Jews traditionalist mode of life became dominant within Jewish circles and was the one which the non-Jewish Canadians connected with Jewry in general. By deliberately limiting themselves to their “apologetic”²⁸ ideology, their strange ways confirmed the anti-semitic argument about them being an “unlikeable, unassimiable, alien boyd [*sic*] with narrow concerns” which excluded all things Canadian.²⁹ They lived in poverty and ugliness in the poorest quarters of cities and maintained contact with the poorest elements of Canadian society. Their work in the sweat shop system, where they earned meagre wages under unsanitary conditions,³⁰ connected Canadian Jewry with the onslaught of degeneration, nervous diseases and even insanity.³¹

Furthermore, the international anti-semitism which evolved out of the Dreyfus affair reached the shores of Canada. Since a greater number of

the Jews lived in Quebec,³² and with the latter's historical relationship to France, and its adherence to Roman Catholicism, it followed that anti-semitism played a strong role in that province. Anti-Dreyfus conservatism was strong in Quebec because of the "ideas which swirled about in the fatherland of all French Canadians."³² In addition, the Ultramontanes of the Canadian Catholic Church conducted an anti-semitic campaign which coincided with the growing conservatism of the Catholic Church after Vatican Council.³⁴ Also important were the prominent people in Canada who personally espoused anti-semitism; Goldwin Smith, Henri Bourassa and Archbishop Paul Bruchesi.³⁵ For Canadian Jewry, the early decades of the twentieth century were trying times.

Canadian Jewry on the whole felt the effects of anti-semitism and reconciled misconceptions among themselves³⁶ and their position in Canadian society. Therefore, "the new arrivals constituted a bridge to the outside world and in many ways drew (the old established) Canadian Jews out of their virtual isolation. . . ."³⁷ The German Jews began to defend their incoming European brethren from the anti-semitic onslaughts, and in so doing, stood up for the centuries old traditions and customs of rabbinical Judaism which they themselves recognized.³⁸ Within this climate, the question of the Jewish position in federal Sunday law came to the fore. This brought Canadian Jewry closer together than ever before: "all the groupings had and were conscious of the common denominator of being Jews and were alert to Jewish needs."³⁹ The issue of Sunday law forced Canadian Jewry for the first time in its history to act as a united entity on the national level in voicing a Jewish point of view on a public issue.⁴⁰ The importance of this issue over any other was a response to the religious inferences of Sunday law and its materialistic effects upon the Jews especially. To the Jews, the "prima causa" of their survival was their religion⁴¹ of which the Sabbath was the core.⁴² Canadian Jewry was ready to stake its claim.

The leaders of the Canadian Jewish community who persued action on this issue were of the old established group. They were the spokesmen for the Jewish community in the past and retained their position. They were best qualified to handle problems pertaining to Jews in Canadian society because of their knowledge and adaptation to both Judaism and Canadian society. These people of Anglo/German ideological extraction were profound thinkers of social problems and were publicly active. The basis upon which they worked to solve these social problems was their "ideal

society” of the “American Dream.” A society where public life and religious consideration were separate because the latter was a personal affair. They desired a free society without any type of discrimination where everyone was an equal. This was uppermost in their lives and they sought to apply it to Canada. When social conditions or laws appeared to counter this concept, thereby affecting Canadian Jewry, they sought to alleviate the problem.⁴³ Realizing, however, that their type of society was idealistic and non-existent in Canada, their approach to the solution of existing problems was pragmatic. It was their intention to solve the dilemma created by the introduction of federal Sunday law for the conscientious Canadian Jew who observed his traditional, customary, religious Sabbath as his day of rest on the seventh day, commonly called Saturday.

Up to this time, the Jewish connection with Sunday law was no different than that of the majority of the Canadian people. No previous Sunday regulation contained any type of exemption for the religious dissenting minority. Jews who were not religiously conscious were not affected by these measures because they worked as much as the law allowed.⁴⁴ On the other hand, some Jews who were religiously conscious were able to work on Sunday and maintain their status as law abiding citizens. This faction of Canadian Jewry, whether faithful to their religious convictions or not, had the various occupations which entailed legal guarantees for Sunday labour along with other Canadians.⁴⁵ The Jews who worked on Sunday did not incur any economic or financial disabilities under Sunday regulations, thereby avoiding an internal problem between religious scruples and material sustenance.

An internal problem confronted the remainder of the Jewish community in their attempts to maintain material sustenance, religious convictions and the status of law abiding citizens. Religion taught the Jew “to honour the law of the land in which he lives.”⁴⁶ The Jews who wished to be law abiding citizens and faithful to their religion had no other choice but to abstain from labour for two days during the week.⁴⁷ The ones who could bear the financial brunt did so, but those who could not, did not. This latter class, the unfortunate Jew who illegally worked on Sunday, did so out of moral obligation, which was based upon a deep religious conviction so that he would be able to sustain himself and his family financially. To him, Sunday labour was justified because in any circumstances in which religious conscience and law were not synonymous, his religious conscience superceded any type of legal enactment.⁴⁸ Out of this classification, two types emerged; those who were working but not caught and the

others who were apprehended and convicted.

The vast majority who fell under the former classification were those who manufactured products behind closed doors in factories and/or allowed no retail trade or those who did personal work in their private establishments. This group worked quietly and inconspicuously, creating no disturbance which was offensive to those who complied with the Lord's Day legislation. The Jew who worked on Sunday in this manner was not found out.⁴⁹

The most unfortunate Jews were those who were arrested and convicted for violating Sunday. They had a dual moral obligation to fulfill; the first being their own financial position and also to furnish necessities and commodities upon which other Jews were dependent. The occupational structure of this group of Jews consisted of vocations which entailed in the main, the selling of various commodities to fellow Jews who had been unable to purchase these items since the beginning of their Sabbath on Friday evening.⁵⁰

With the introduction of Sunday legislation by the Government at the prompting of the Lord's Day Alliance, opposition rose throughout the country in which the Jews took part. Generally speaking, Canadian Jewry viewed the measure as put forth by an ultra religious group who found people to be delinquent in their church attendance and therefore intended to force people to be religious by an act of Parliament.⁵¹ Because the Alliance dismissed Jewish arguments, the Jews felt that the legislation was intolerable.⁵² It seemed comparable "to the old blue laws of Massachusetts" declared the Disraeli Club.⁵³ The enactment known as the Shearer Bill,⁵⁴ was opposed by Canadian Jewry because their conscientious convictions were not taken into consideration; the measure interfered and infringed upon their civil [secular] and religious liberties.⁵⁵ Therefore, faced with the Government's control of Sunday legislation coupled with the peculiar predicament in which the "bulk"⁵⁶ of Canadian Jewry found themselves, the spokesmen for the community decided to take advantage of their political and constitutional rights and voice their opinions on the proposed law.

Out of the Baron de Hirsch Institute in Montreal, a group of individuals worked to promote the Jewish cause. Under the guidance of Maxwell Goldstein, a temporary society was formed in February, 1906. Its purpose was the protection of the Jewish people of this country from all manner of unjust treatment, criticism and discrimination.⁵⁹ The formation of the Jewish deputation regarding Sunday law stemmed from this group and its

membership was open to Jews across the nation. From Montreal came H. Vinberg (chairman), M. Goldstein (legal counsel), S. Kellert (secretary), M. Workman, C. I. de Sola, D. S. Friedman, L. Cohen, S. Jacobs, R. H. Blumenthal, along with Rev's M. de Sola, H. Abramowitz and H. Kornfield. Single representatives from the cities of Toronto, Ottawa and Hamilton were Rev. S. Jacobs, Alderman Rosenthal and Rev. L. Weiss.⁵⁸ Their occupations included five spiritual leaders (Rabbis), five in the garment industry, one in bridge and shipbuilding, one in jewelry and the last two in law.⁵⁹ These men worked diligently in the preparation of an appeal for the Jewish cause and were prepared to present their case three days after the Sunday bill had been introduced in the Commons.

On March 15, 1906, the Jewish deputation met with Laurier and Fitzpatrick. Goldstein presented a memorial and addressed the Prime Minister and Minister of Justice along with Vinberg and Rabbis de Sola, Jacobs and Weiss.⁶⁰ They argued that the bill as introduced was unfair, unjust and a piece of class legislation because the promoters of the measure ignored the considerations of many segments of society. Moreover, the supporters of the Act overlooked existing regulations concerning Sunday labour in other countries, especially Britain and the United States where exemptions were given to religious dissenting minorities. In a country like Canada, where a guarantee existed of legal equality among all religious denominations, religio-conscientious convictions of the minority were not respected within the bill.⁶¹

Coupled with the complaint of constitutional standing via religious affiliation, the deputation stressed the financial hardships which would be incurred because of religious adherence. The "bulk" of Canadian Jews would be obliged to abstain from labour because of secular and religious law for fifty-two Sabbaths, fifty-two Sundays and thirteen days because of festivals. In the latter group, if a religious festival fell on a Monday or Thursday, four consecutive days of labour would be missed by the religiously conscious Jew. The absence of work for a total of one hundred and seventeen days a year was a severe hardship placed upon one who followed his religious convictions as well as the law of the land. Since Canada did not allow pauper immigrants, the creation of pauper citizens had to be avoided. The result of the Sunday legislation would spell poverty for the Jew and make him, for the first time, a burden on the state.⁶²

Because of constitutional and financial deprivations, the Jewish deputation recommended in March, 1906 that the bill as introduced not be passed. Instead, they urged that if legislation along these lines were necessary,

it should be enacted through an appointed parliamentary select committee which would "be acceptable and do justice to all sections of the community." Finally, in any bill so drafted, an exemption should be incorporated for those who did not observe Sunday as a religious day of rest.⁶³ In reply, Laurier sympathized with the Jewish appeal because the only effectual difference between the Jew and the Christian was the day each regarded as their religious Sabbath. He was personally "anxious to meet the views of the Deputation," but was steadfast in his refusal to promise or concede anything. Nonetheless, he assured the deputation that he would present their views to the cabinet and "nothing would be done without full consideration."⁶⁴

Negative reaction to the Jewish appeal went to Ottawa as quick as the Jewish response to the introduction of the measure. On March 20, 1906, a large and influential deputation representing the Lord's Day Alliance, Dominion Trades and Labour Congress and the various Christian churches of Canada, waited upon Laurier and Fitzpatrick. This deputation protested against any type of religious minority exemption in the bill, and although it sympathized⁶⁵ with the religious dissenters because of the financial disabilities they might incur in light of their conscientious convictions, it argued effectively against their demands.

Regarding the religious convictions of some other Canadians, this deputation claimed that Mormons were not allowed to follow their conscience. Canadian law forbade the practice of polygamy and this consideration, the deputation felt, would even be upheld by Jews. These gentlemen believed that conscience "should be respected at all costs," but not on the question of Sunday observance. It was not unique for a group of people to endure financial hardships because of religious or conscientious convictions, and in the consideration of Sunday law and the position of the Jew, such a disability was quite unavoidable in the view of the Canadian people.⁶⁶

Sunday was chosen as the national day of rest because of the first-day Christian majority and these gentlemen felt that a religious minority exemption would impair the efficiency of the proposed law which was instituted for the general welfare of the community. Granting such an exemption would destroy Sunday law in the communities where they lived, the results would be an open Sunday thereby robbing the whole community of its Sunday privileges for the one or two per cent "to do what they think they ought to." Since legislation was dependent upon majority rule, this deputation simplified the issue by stating, "the liberty of rest for

each demands the law of rest for all.⁶⁷

To complement the contention of majority will, political tradition was also used. They argued that granting a religious minority exemption would be a departure for which there is no precedent in existing Sunday regulations either in Canada, Britain or the rest of the Empire.⁶⁸

The deputation also pointed out that the complaints of the Jews regarding the religiosity of the bill were misconceptions because infringement upon freedom of conscience and religion was non-existent. The Jews were still guaranteed full religious liberty because there was nothing to stop them from observing their religious Sabbath. Also, the restrictions placed upon the Jew in the Sunday bill did not entail any religious observance of the day but rather affected them as it did everyone else. As long as the law was upheld, the day remained the protected day of rest and left "all free to make such use of it as they chose."⁶⁹ Because of these arguments, this deputation urged that the religious dissenting minority demands for an exemption not be taken into consideration.

After listening to their exposition, Laurier replied sympathetically to their pleas and also mentioned that he sympathized with the Jewish contention, as long as selling and scandal could be avoided. He ended by stating that all parties would have an opportunity to present their views to a parliamentary select committee.⁷⁰ On hearing this, the Alliance knew the Government meant business. They also felt that the Jews would not bring about too much opposition because of the Alliances' influential lobby within parliamentary circles.⁷¹ Therefore, within the legislative scope the issue rested for the moment, but was still a lively one in the press until the end of the month.

Immediately following the publication of the meeting between the Jewish deputation and the Government, the controversy centred upon statements made by Rev. J. Edgar Hill, President of the Quebec Alliance. The Jews, to Hill, were refugees who sought asylum on Canadian shores so that they might live a peaceful life on this continent. The privileges they received were those which they were entitled to under British law; therefore, these refugees ought to be thankful for that and should not be excessive in their demands. Since Sunday law was to secure every citizen a day of rest for the benefit of the nation, it affected the Jew accordingly. The Jew must remember that he lived in a Christian country, run by a Christian Government, and that a bill devised by Christian men could never meet the views of the Jews. It would be offensive to the Christian community for Jewish Sunday labour to be legalized when the Christian is

obliged not to work. It would be going much too far to offer such a privilege to a people who were not law abiding citizens or Sabbath keeping as they were made to be. It was unfortunate for the Jew that his Sabbath differed in day from the Christian. It was, therefore, his conscience, not the law, which compelled the Jew to lose those numerous days of work. Because of this, Hill contended an apology to the Jews was not in order. "The trouble with Jews everywhere," Hill commented further, "was that the Jew is an anachronism in modern society."⁷² Through such assertions of overt anti-semitism,⁷³ Hill stated his case and immediately rebuttals came from both Jews and Christians.

Jewish defence against Hill's attacks stemmed from religious and lay circles. Rabbis Jacobs, de Sola and Weiss represented the former while Vineberg, Lewis A. Hart and Allan Judah Hart, descendants of the renowned Hart family who fought for Jewish rights and privileges in colonial Canada, represented the latter. These men contended that Hill's accusations of Jews being Sabbath breakers and not law abiding were unwarranted and merely one-sided. There were more Gentiles, per ratio of population, in penitentiaries than Jews and the desecration of the Christian Sabbath was more preponderant within Gentile circles than Jewish. Instead of rallying against Jewry, these defenders stated, "more time should be spent in getting Christians to observe Sunday as faithfully as the Jew does his Sabbath." If this was accomplished, Sunday legislation would not be necessary by trying to make men religious through the fear of law.⁷⁴

Moreover, the Jewish deputation's action was defended by these men against Hill's attacks. In this situation, they merely stood up for their minority rights which a Christian Government in a Christian land existed to protect. In so doing, they did not seek new privileges but "protested in conformity with religious liberty." They were not interested in detracting from the sanctity of the Christian Sabbath nor in working seven days a week which they along with other Canadians sought to alleviate. All the Jews desired was to be able to work six days a week like first-day Christians and not be limited to five. The Jews felt they had a right to speak out on the issue just as the majority of the citizenry of the country. This concept of religio-minority rights ought to have been one with which Hill, himself, was familiar, being a member of one such group in the province of Quebec.⁷⁵

The tone in which Hill presented his case was unjustifiable. When the Jews presented their case, not one derogatory statement was made about

Christians⁷⁶ whereas throughout Hill's condemnation of the Jew, the spirit of bigotry, ignorance and intolerance was overwhelming. Since his religious affiliation preached brotherly love, it was difficult to comprehend Hill's position which seemed to be somewhat hypocritical at the very least.⁷⁷ The most degrading statement which Hill made was in calling the Jew an anachronism in modern society. This term was not original but used by Christian "Jew baiters and Jew haters" throughout preceding centuries during the Judaic persecutionary periods.⁷⁸ Yet, Hill never stated why the Jew was an anachronism but implied that the retention of age old traditions and concepts was itself anachronistic. This did not justify one being an anachronist, but rather revealed how Hill was "behind the times" by neglecting to reveal the spirit of toleration which other Christians in Canada as well as other countries displayed.⁷⁹

Because of his intolerant attitude, de Sola suggested that the Christian public would not accept Hill's contentions,⁸⁰ nor did they. Christian responses to Hill's comments not only substantiated Jewish claims that the Christians and not the Jews were the real offenders of Sunday law, but went much further to condemn Hill than did the Jewish defenders. To the tolerant Christian, it was not the Jew but Hill and the church he represented which was the anachronism.⁸¹

Meanwhile, the Canadian press became involved in the controversy and expressed a wide range of opinions in relation to the solution of the Jewish dilemma. *The Ottawa Witness* felt that the Jews ought to have a high estimation of a national Sabbath and not ask for an exemption. With the Jews seeking an exemption, this paper felt the major question was "whether the Jews will let us have a Sabbath or not."⁸² At the opposite end of the scale, *The Montreal Star* stated that despite the Christian appeal for a quiet Sabbath, the Jewish protest could not be ignored. Christians should not override the conscientious feeling of the religious Jew who felt that abstention from labour two days a week would result in financial disabilities. When Christians allowed some men to work seven days a week, "they must in all conscience permit others to work six." The only solution to this problem would be to compromise on the issue by aiding the minority in such a manner which would not be offensive to the majority. A solution would not be simple, admitted the writer, but it would be "worthwhile to take some trouble to meet the conscientious scruples of all our citizens."⁸³ Finally, *The Toronto News* sympathized with the Jews because of the economic hardships the legislation would entail, but believed that no alteration could be made for the religious dissenting

minority "without making a loophole for others to crawl through." This paper acknowledged that the legislation was beneficial for the community and one which should become law.⁸⁴

Nonetheless, the Hill controversy continued after the Jewish defence. After receiving public condemnation, Hill attempted to make a crucial situation look superficial and to "pass the buck" on to the Jews themselves. He claimed that the word "anachronism" was an innocent one because an anachronist was a person "who lives and professes to live in the past." "This being the pride of Israel (and) the preservation of their faith," claimed Hill, "the Jews should not have taken offence." However, if this interpretation was misleading, Hill stated that "the Jew was weakening in what used to be his strength." Furthermore, he contended that de Sola's arguments about Hill's predecessors who also considered the Jew an anachronism and persecuted them was a subtle ploy to steer away from the issue because Jewish persecution was non-existent in Canada. Hill vividly compared de Sola's argument to that of an endangered cuttlefish who "emits the inky fluid about itself within the water (so that) escape undercover to a place of safety" was feasible.⁸⁵ On the whole, Hill's defence was not enlightening. From the Jewish side, de Sola pointed out that Hill merely tried to divert public attention on the Jewish stance towards Sunday law through his illustrative comparison of the cuttlefish along with the minute difference of meaning between an anachronism and an anachronist. By trying to escape this display of insulting tolerance through deception, de Sola remarked that Hill was not only guilty of breaking rules of decency, by insulting another creed, but also immature for not admitting his error when greater men than he, "had the manliness to do so."⁸⁶

Christian replies to Hill's defence still favoured the contentions of Canadian Jewry. The Jew being "in our midst due to our acceptance," and a law-abiding citizen, commented a Christian defender, he cannot be "flouted as an interloper or an anachronism" because of his conscientious position.⁸⁷ Furthermore, the insistence that the Jew was an anachronism, left much to be desired for the Christian, let alone modern society, whose foundations were of the Judaic tradition.⁸⁸

With rising tension and friction caused by this controversy over the Jewish plea, the press wanted to wash its hands of this difficult issue. After relating both sides of the argument, *The Montreal Gazette* informed its readers that it would cease to publish any more information on the topic.⁸⁹ *The Montreal Star* also warned the public that "no seed

(brought) . . . forth a more bitter harvest than an acrimonious religious controversy (which) the truest friends of religion in all forms would deplore.”⁹⁰ Fearing what might result from the editorials of the newspapers, and realizing that nothing could be resolved, the Canadian press, being realistic and practical, removed itself from further involvement in the controversy since the solution lay in the hands of the federal legislators.

III

THE EFFORTS OF CANADIAN JEWRY TO SECURE AN EXEMPTION

After the controversy within the press, the Jewish issue returned to Parliament Hill. On April 5, 1906, a parliamentary select committee dealing with the proposed rest day legislation which Laurier had earlier promised, was formed.⁹¹ The committee consisted of the following M.P.'s; Daniel, Ames, Fitzpatrick, Macdonell, Piché, R. Smith, Miller, Geofrion, Macdonald, Sinclair and Roche who was replaced by Schaffner on April 23, 1906.⁹² The altered select committee was representative of a cross section of the populace of Canada. It consisted of six Liberals (three Roman Catholics, three Protestants) and six conservatives (one Roman Catholic, five Protestants).⁹³ Also, two of these men were executive board members of the Lord's Day Alliance of which one of them was a labourite M.P.⁹⁴ All of these committee members were in accord with the principle of the bill, of supplying one days rest in seven.⁹⁵ It was the Government's hope, through this committee, various interests would be heard in the production of a reasonable and workable measure. With their cooperation the bill would “have behind it the force of public opinion,” so as to make it become a law which the people would follow, not evade.⁹⁶

With the appointment of the parliamentary select committee, the Jews felt that they had achieved remarkable success, having earlier requested the formation of such a committee.⁹⁷ Knowing that the Alliance disapproved of a religious dissenting minority exemption, the Jewish outlook became optimistic because they did not have “to appeal to the alliance for relief, but to a tribunal composed . . . to do justice. . . .”⁹⁸ Having this opportunity before them, the Jewish deputation sought to capitalize on the situation and to convince the select committee of their needs.

Their approach in solving the Jewish dilemma of Sunday law was realistic and practical. Many of the Jewish ideals coincided with those of the Christians. Being cognizant of the fact that the Jews were a minority and that the majority must rule, hypothetical considerations were not evi-

dent in their attempt to resolve their problems. The Jews recognized the principle of the bill, one day's rest in seven and regarded it as sound. They favoured the idea of eliminating selling on that day, keeping it peaceful and quiet as well as upholding the concept of not forcing an individual to choose between his financial stature and religious convictions.⁹⁹ Working within this principle, the Jews lobbied for an exemption.

By maintaining similar concepts with the Christians over Sunday Law, the only thing that differed between the Jew and the Christian was the day which their religion designated as the day of rest. In their fight for Jewish labour on Sunday, the Jews merely wanted to give their fellow Jew who observed a Saturday Sabbath as his weekly day of rest, the opportunity to maintain financial sustenance. In achieving this end, only Jewish labour behind closed doors would be a prominent issue. Yet this was usually done in a manner which would not disturb others in their observance of the day. The Jews had no intention of interfering with the religious majority concepts whatsoever. Since they realized that the application of Sunday law pertained equally to everyone in the country, the Jews' only objective would be a restricted form of labour. Working within this framework, the Jewish deputation felt that a case existed "where the majority could well concede to the minority their view. . . ."¹⁰⁰ They were prepared for the hearing before the select committee.

The select committee, under its chairman John W. Daniel,¹⁰¹ began its work immediately after conception to bring about a congenial rest day law. Between its first sitting on April 9, 1906 and its last of June 1, 1906, ten sessions were held until the completion of its work.¹⁰² Because of the numerous interests wishing to be represented, the committee was allowed to carry on its business while Parliament was in progress.¹⁰³ Public hearings were conducted during the first eight sittings while the last three sessions (nine and ten exclusively) concerned amending and redrafting the bill.¹⁰⁴ The religious interests were the last on the agenda and the Jewish delegation was scheduled for April 24, 1906.¹⁰⁵ Here, the Jewish interests would try to secure Jewish Sunday labour through constitutional and legal means.

Goldstein, representing the Jewish interests, pleaded the case before the select committee on April 27, 1906.¹⁰⁶ Members of the committee on hand that day were Daniel, Fitzpatrick, Ames, Macdonald, Macdonell, Miller, Piché, R. Smith and Schaffner.¹⁰⁷ Only Miller and Fitzpatrick remained silent throughout the proceedings. The Jewish amendment drafted by Goldstein and amended by Ames,¹⁰⁸ was the focal point of discussion:

Notwithstanding anything herein contained whoever conscientiously and habitually observes the seventh day of the week as the Sabbath and actually refrains from work and labour on that day, shall not be subject to prosecution for performing work or labour on the first day of the week, provided that such work or labour does not disturb other persons in the observance of the first day of the week as holy time, and that the place where the same is performed be not open for traffic on that day.¹⁰⁹

Under this amendment, Goldstein contended both Jewish and Christian sentiment regarding Sunday law would be upheld and maintained. The only person who could avail himself of this section was the religiously conscientious Jew who did not work or labour on his Sabbath. Along with this, no Jew would be able to work seven days during the week because if he worked on Saturday he lost the advantage of the exemption and would be obliged to take Sunday as his day of rest according to the law.¹¹⁰ The Jew would have to prove that he conscientiously and habitually observed the seventh day by not working, which in turn afforded him the opportunity to work on Sunday; otherwise, if caught working on both Saturday and Sunday, he was held liable for his actions.¹¹¹

This was the only situation in which Goldstein contended that the Jew was liable for his actions under Sunday law. He objected to the suggestion of making the Jew liable to the same penalties for working on Saturday as the Christians were for working on Sunday. Aside from the idea that following this course of action, the Government would be reinstituting the stimulus of traditional Judaic law, the suggestion imposed restrictions upon the religiously conscious Jew for two days instead of one; unless, those restrictions were altered from Sunday to Saturday. This was absurd because the concept of a national day of rest would be lost, for, as Goldstein contended, the law in the main was applicable to everyone including the Jew. The only advantage afforded by the amendment was to the religiously conscious Jew who abstained from labour on his Sabbath and therefore was permitted to labour on Sunday under the amendment's provisions.¹¹² The purpose of the exemption merely equalized the amount of period of rest required by law that one should take, that of one day's rest in seven.

Nevertheless, Goldstein reinforced the conviction that this consideration gave the Jew an advantage over the first-day Christian because the former had a choice of which day he desired to observe as his day of rest, either his religious Sabbath or the legal, national day of rest.¹¹³ Since the chosen day of rest coincided with the whims of the majority, it was naturally assumed that the Jew would have a choice while the first-day Christian did not have such an opportunity.¹¹⁴ Within the context of what

had been said so far regarding the Jewish amendment, the principle of the bill would still be upheld. Assuming only Jewish labour existed, it appeared, as Goldstein first remarked, that the shops would have to be closed on Saturday in order to take advantage of the exemption.¹¹⁵

Despite some loopholes in Goldstein's arguments, his approach in solving the Jewish dilemma was consistent. In all the above considerations, the place where one laboured on Sunday was restricted to the point that sales were not allowed nor could such work disturb the first-day Christian in the observance of Sunday as a day of worship. No one would be able to work seven days in a week without resting at least one day as required by the bill. In order to fulfill this requirement, the loopholes were unavoidable; such as the possibility of first-day Christians working on Sunday and Jewish firms remaining open for seven days a week, but they were necessary to maintain "an equilibrium between the different social (religious) forces"¹¹⁶ within the context of Sunday law. The Jews were given their chance to present their views and the decision of acceptance or denial of their cause rested with the select committee.

On April 27, 1906, coinciding with the Jewish interest's presentation, Shearer, representing the Lord's Day Alliances, spoke both prior to and after Goldstein's presentation to the committee.¹¹⁷ During his cross examination, Shearer expressed dissatisfaction on various amendments including the Jewish one.¹¹⁸ His contentions against the exemption were regurgitations of what the anti-religious minority deputation, of which Shearer himself was spokesman, stated to Laurier and Fitzpatrick a month earlier, namely; no precedent for such action, no infringement on either religious liberty or freedom of conscience, and the will of the majority must be maintained.¹¹⁹

On June 1, 1906, the last day which the select committee met, the Jewish question was finally settled.¹²⁰ Every member of the committee was present except for Macdonell (who was present at Goldstein's hearing and who was a supporter for the Jewish cause), whereas Geoffrion was the only member present when the voting took place who was not at Goldstein's presentation.¹²¹ After debating the issue, the committee's decision was to incorporate the Jewish amendment as Section 11 in the measure by a vote of five to four.¹²² Despite the Alliance's presence and influential opposition when the voting took place,¹²³ the adoption of Section 11 was another Jewish victory in their continuing struggle.

The victory, however, was not a total one in every sense of the word. For all intents and purposes, the majority feeling of the select committee

went the opposite route.¹²⁴ An anonymous member of the committee who voted for the adoption of the exemption was wholeheartedly against it and would vote accordingly when the measure would be discussed in the commons.¹²⁵ Therefore, the reasons why HE voted this way was the same reason why the exemption was incorporated into the bill as Section 11.

This was a clause of very considerable importance upon which there was a great difference of opinion and . . . he voted for this so that it might be reported to the House and discussed by the whole House.¹²⁶

The anonymous member assumed this course of action through honest convictions. Aside from the Jewish deputation's pragmatic approach in solving the Jewish dilemma, it was to HIM that the Jews owed their thanks, that the Jewish exemption amendment, Section 11, referred to as the 'Jew Clause' was allowed to live and not die.¹²⁷ Miraculously, the Jewish struggle continued, but the longevity of Section 11 rested on the discretion of the entire parliamentary body.

The issue did not rest at this point by leaving it up to the legislators to decide. Both the opposition and supporters of Section 11 tried to influence the parliamentarian's decision. The Alliance, being the former of the two advocates vigorously attacked the Jewish position. In its efforts to secure the "toiling man his rightful claim to one day's rest in seven,"¹²⁸ the Alliance was consistent in its arguments against the acceptance of the Jewish exemption in the bill. Within the enactment itself, there existed no infringement upon religious liberty or freedom of worship of the Jew, nor on any required religious observance of the day. The measure merely sanctioned the universally recognized principle of all Christian nations that Sunday, as an institution, was the weekly day of rest. In Canada, the views of the majority must be respected so as to ensure that Sunday be kept as the protected rest day. To secure this, the conscientious convictions of the religious dissenting minority could not be met and the principle of "the liberty of rest for each demands the rest for all" must prevail.¹²⁹

Viewing the Jew's purpose in predominately Christian Canada to be limited to either seeking fortune or refuge from a persecutor, the Alliance held "that having sought our land for THEIR OWN GOOD (*sic*) they should conform to our laws and recognize the (prevailing) civil (*secular*) customs. . . ."¹³⁰ Despite the Jewish appeal, the Alliance firmly believed that these "Saturdarians"¹³¹ intended to cause a general breakdown on Sunday law¹³² and accordingly placed this non-Christian force alongside those outright enemies of Sunday law; the infidels, skeptics, pagans, criminals and irreligious groups.¹³³ Coupling this interpretation of the Jew

with their prime consideration for Sunday law, the Alliance rejected the Jewish exemption because there existed "a righteous limit beyond which we are not warranted in respecting conscientious convictions." "This limit," declared the Alliance, "was reached in the question of Sunday legislation when all were allowed to observe religiously or not as they pleased, the Christian Sabbath, . . ."¹³⁴ To the Alliance, Sunday being the Lord's Day or the Christian Sabbath was of inestimable value; not Sunday as the national day of rest; but its retention as such could only be achieved legally, by making it the national day of rest. Therefore, considering the Alliance's attitude towards Canadian Jewry with their religiously based contentions for Sunday law, the non-acceptance of the Jewish exemption went hand in hand with the Alliance's prime consideration of protecting and preserving the Christian Sabbath.

With the adoption of Section 11, the Alliance strengthened their objections with specific reference to the exemption. The Alliance claimed that the Jews worded it in a cunning manner so that Jewish entrepreneurs would be able to stay open for seven days a week by means of legal guarantees. They also claimed that this was the "most objectionable" clause in the enactment. Firmly believing that Section 11 would create widespread opposition throughout the country, the Alliance allowed that in all probability the Commons would reject the exemption.¹³⁵ Aside from using the press, the Alliance personally acquainted legislators with their objections to Section 11 in the hope of swaying these parliamentarians to their side of the issue. Yet, to attain their objectives, the Alliance did not want to campaign alone. Realizing the strength of public opinion, the Alliance organized a powerful and influential front to have their contentions backed up by consensus and in this manner ensure defeat of Section 11.

The Alliance, being the representative for Protestant churches on the issue, approached this group. During the month of June, by coincidence, the majority of Protestant churches held their annual synods or assemblies. Taking full advantage of the opportunity, the Alliance sent representatives to the various meetings. After explaining the situation, the Alliance called for (and received) strongly worded resolutions requesting "the government to preserve the bill inviolate."¹³⁶ Not limiting themselves strictly to church assemblies, the Alliance urged individual ministers to encourage their congregations to write to their member of Parliament voicing their disapproval of the Jewish exemption.¹³⁷

Moreover, the Alliance also consorted with their Roman Catholic

brethren. Up to this time, the Catholic element had made no specific commitment regarding the Jewish appeal outside of its representation on the protesting deputation of March 20, 1906. But, with the adoption of the Jew Clause, the Alliance wished to encourage Catholic support. In this consideration, Shearer not only wanted the Catholics to voice their opinions in disagreement with Section 11, but employed a new tactic to combat the clause. He took advantage of personal and sentimental attachments when he contacted one of the most prominent and influential Catholics in the nation, Paul Bruchesi, Archbishop of Montreal. Shearer, finding a common denominator between first-day Christians, pointed out that any exemption to the Jew was "offensive to the Christian religion besides being subversive of Sunday observance." Feeling confident that Bruchesi's ideas were similar to those of the Alliance, Shearer asked him to contact Laurier and protest the exemption. With Fitzpatrick out of the Government, Shearer felt that Laurier was the only man who could ensure the defeat of Section 11; and no one else except Bruchesi could influence Laurier to do so. Shearer was confident that Bruchesi's interjection would resolve the issue.¹³⁸ Bruchesi immediately contacted Laurier, but Bruchesi made no mention of Shearer's request.¹³⁹ Laurier, however, being interested in the Archbishop's comments, sent him a copy of the select committee's draft of the bill and requested Bruchesi's opinions.¹⁴⁰

After reading the draft of the bill, Bruchesi replied to Laurier and substantially fulfilled Shearer's request. He opposed Section 11 on similar grounds to that of the Alliance which merely reinforced the Alliance's convictions. Bruchesi was of the opinion that in Canada, a Christian country, the Jews should observe the common law which, in this case, did not provide for Jewish liberty of religious conscience. Furthermore, he protested that this exemption was unnecessary because Saturday Sabbath observers among Jews were rare and they had relatively no scruples about working on that day. Bruchesi concluded his general comments by stating that the accorded exemption "*sera un mauvais exemple donné à nos populations.*" Bruchesi contended that there was no substantial "*raison d'être*" for a Jewish exemption.¹⁴¹

Bruchesi also felt that a specific minority exemption which the measure allotted the Jews evoked bitterness from the majority. Despite the restrictions entailed in Section 11, Bruchesi felt they would not be advantageous when put into practice. He argued that many Catholics would take advantage of this opportunity to make "Sunday money" by rendering their services to Jewish establishments. With the numerous Jews in Montreal,

Bruchesi felt the situation was bad enough; but with the increase in Jewish Sunday labour, Catholic labour under Jewish employers would become considerably worse. The Jews protected by law, would be free to do that which was forbidden to Christians. To avoid this situation, Bruchesi urged that "*nous devons être en garde.*" This being the practicality of the situation, Bruchesi summarized that there existed only one course to follow: "*dans une question aussi grave.*"¹⁴²

Laurier differed in opinion with the Archbishop on the Jewish question. Being one who had defended minorities throughout his political career, Laurier was inclined to protect the Jewish minority "*par instinct et tradition,*" in this situation. Yet, he did not limit his contentions merely to maintain consistency in his political tradition. Even though Section 11 was not completely satisfactory to him and susceptible to modification, Laurier approved of the principle behind the clause. It was upon this principle that Laurier, speaking to Bruchesi, maintained that French Canadians should allow the greatest toleration on all occasions and at all times because "*les cas seront nombreux où cette ligne de conduite leur sera d'un grand secours.*"¹⁴³

Personal pressure directed to Laurier such as that of Bruchesi, was not limited to religious interests but to other sources as well. Political patronage was employed to try to sway Laurier by Henry H. Miller, an M.P., a member of the Alliance and of the protesting deputation of March 20, 1906. Miller maintained that Ontarians disapproved of the exemption; if it were passed harm would result.¹⁴⁴ With the Liberal party support in Ontario stemming from "those classes who believe in church and in religious institutions and have strong views on moral issues,"¹⁴⁵ and with the position of the Liberal Party in Ontario,¹⁴⁶ it was perfectly clear that the Jewish question, as Miller pointed out, was a very important one.¹⁴⁷ Laurier, being well aware of his party's position in the province¹⁴⁸ and the overriding view of the party's supporters,¹⁴⁹ replied to Miller that he would support Section II because it was his rule to endorse a provision recommended by an appointed parliamentary select committee.¹⁵⁰ Despite Laurier's rebuttal to both Bruchesi and Miller, the reasoning behind the commitment to defeat Section 11 further strengthened the Alliance's project.

The course of action which the Alliance adopted of influencing legislators to achieve their goals was a normal procedure to follow. When it appeared it was not gaining ground with a policy of suasion directed to parliamentarians, the Alliance followed a subtle yet tactful policy of

behind the scene political coercion. When a legislator did not see eye to eye with the Alliance on the Jewish exemption, the Alliance encouraged and endorsed the policy of constituents applying political threats on their representative legislator regarding election support if he did not succumb to the whims of the Alliance. These protests were to be so effective that the legislator would think twice before embarking on his course of action in future issues. But, while the constituents applied such pressure, the Alliance profusely stressed that caution should be used to make certain that in no way could it be connected with that type of action.¹⁵¹ The Alliance, being the major opponent of the Jewish appeal, was adamant in its attempt to halt the string of Jewish successes as of this point. Defeat of the Jewish exemption was the Alliance's ultimate goal.

In contrast, the Jewish appeal group which supported the retention of Section 11 was neither as lively nor as intense as that of the Alliance. It was a simple procedure. The Jewish attitude towards the Alliance and the proposed Sunday law remained the same. The Jews did not feel themselves to be newcomers or foreigners because they had lived in Canada since the British takeover. Throughout their history, the Jews participated faithfully in spheres of Canadian concern.¹⁵² Religiously, being the first group to observe one day's rest in seven, whence Christianity adopted the concept, they also felt that Sunday law would be used for the benefit and not injury of the Jew.¹⁵³ Despite the absence of these concepts, the Jews still believed that the measure had been drawn up by a "knot of Puritan divines," thereby making the measure "an astonishing and unnecessary piece of legislation,"¹⁵⁴ which tried to "establish the Christian Church in the Canadian constitution."¹⁵⁵

With the Government seeing necessity for Sunday law, Canadian Jewry accepted that fact and worked within the proposed legislation to alleviate their problems. The select committee's decision to adopt the Jew Clause was a victory the Jews were not about to lose by having the Commons reject it, and they continued to work for the passage of the exemption by maintaining consistency in their arguments. The Jewish deputation served the parliamentarians a memorandum explaining the merits of Section 11 and its relative position within the context of the bill itself. They felt that opposition to the clause was based upon misconception of its terms because the opponents to Section 11 had neither studied nor understood its application. Section 11, stated the Jewish deputation, merely succumbed to the principle of the measure with respect to the Jewish problem in providing for Sunday labour. Yet, this labour was clearly restricted

upon four major conditions which the Jewish deputation felt would neither hurt nor infringe upon the religious sentiments of the majority.

- 1st That they strictly observe their own Sabbath;
- 2nd That they do not work on that day;
- 3rd That the place where they work be not open for traffic on that day;
- 4th That their work does not disturb Sunday Observance.¹⁵⁶

The Jewish deputation, being primarily concerned with helping the Jewish inhabitant, stated that Section 11 merely gave the religiously conscious Jew the opportunity to overcome economic hardship. This financial situation was the crux of the exemption issue; but the reasons which created this economic dilemma had their foundation, not in secular but religious adherence. Because the religiously conscious Jew was the only one affected, they claimed justification for the exemption on constitutional grounds as well:

Legal equality among all religious denominations is a consecrated principle of the British Empire and is specially guaranteed in the statutes of Canada.¹⁵⁷

Having attained equality, Canadian Jewry sought to initiate the principle of "equality of rights as a basic prerequisite for minority rights"¹⁵⁸ in their struggle for an exemption in federal Sunday law.

The Jewish deputation did not limit itself to written communiqués but also made personal contacts with legislators to try to obtain support. In this category, the Jews achieved "astonishing success with Henri Bourassa."¹⁵⁹ On June 20, 1906, the first day of discussion on the bill by the Committee of the Whole of the Commons, Bourassa lodged a formidable and anti-semitic protest¹⁶⁰ against the exemption and the Jews themselves. The exemption, to Bourassa, had no *raison d'être* and he was not prepared "to vote for any special privilege given to the Jews" over any other class. He justified his contentions on the "experience of every civilized country" in which the Jews were found as being, "the most undesirable class of people." The Jews were the least remunerative class, claimed Bourassa, because of their tendencies "of suck(ing) the most from other people and giv(ing) back the least." All that the Jew respected was the criminal law. They were not a part of, but rather apart from the community, Bourassa contended, because the Jews did not "adapt themselves to the customs among the people with whom they live."¹⁶¹

Within a week, however, Bourassa had a change of heart after meeting with the Jewish representatives. He framed an amendment to Section 11 which met both his and the Jewish interests' approval. Bourassa explained his sudden about face towards the Jew on the premise that "the moment

the Jew lands in this country and we collect his money, we owe him the same law of justice and equality that should govern every man in this country.”¹⁶² Embarking on this course of action, Bourassa earned praise from the Jewish community because “he redeemed somewhat the obloquy of previous utterances concerning our [the Jewish] people.”¹⁶³ With the Canadian Jewish community faithfully carrying on the struggle, they were hopeful that their “remarkable success”¹⁶⁴ thus far would be climaxed by complete victory with the acceptance of a Jewish exemption. With both sides of the issue represented, and the measure being now under discussion, it was only a matter of time for Parliament to pass judgement.

FOOTNOTES

1. 29 Car. II, Ch. 7, quoted in A.M.C. Waterman, “The Lord’s Day Act in a Secular Society: A Historical Comment on the Canadian Lord’s Day Act of 1906,” *Canadian Journal of Theology* XI, no. 2 (April 1965): 111, n. 13.
2. “Report of the Committee on Sabbath Observance and Legislation,” *The Acts and Proceedings of the Twenty-sixth General Assembly of the Presbyterian Church in Canada* (13-20 June 1900), by D. R. Drummond, Chairman (Toronto, 1900), 240-253; Rev. T. A. Moore, “Canada — Sunday Rest,” in *Sunday Rest in the Twentieth Century*, ed. Dr. A. Jackson (Cleveland, 1905), 246; D. A. Schmeiser, *Civil Liberties in Canada* (London, 1964), 102.
3. See “Committee on Sabbath,” *Presbyterian Church* (13-20 June 1900), 240-253, *passim*.
4. E. A. Christie, “The Presbyterian Church in Canada and Its Official Attitude Toward Public Affairs and Social Problems, 1875-1925” (M.A. Thesis, University of Toronto, 1955), 236; M. V. Royce, “The Contribution of the Methodist Church to Social Welfare in Canada” (M.A. Thesis, University of Toronto, 1940), 248.
5. Lord’s Day Alliance of Canada, *First Minute Book*, Annual Meeting, 28 April 1888, 7-8. (Henceforth, Lord’s Day Alliance of Canada is referred to as Alliance).
6. W. A. Butler, “The Sunday Rest May Be Maintained By Legislation? The Grounds and Limitations of Such Interference,” in *The Sunday Problem; Its Present Day Aspects*, ed. Rev. W. W. Atterbury, et al. (Boston, 1894), 179 — The coalition of Secular and religious interests was not peculiar.
7. Canada, Laws, Statutes, etc., *An Act Respecting the Lord’s Day, 1906*, 6 Ed. VII, Ch. 27, *Statutes of Canada, 1906*, I: 146-147 (sec. 3).
8. S. Indig, “Canadian Jewry and Their Struggle for an Exemption in the Federal Lord’s Day Act of 1906” (M.A. Thesis, University of Windsor, 1975), Ch. I, 25, n. 139.
9. *Ibid.*, 22 n. 118; *An Act respecting the Lord’s Day, 1906*, 147-148 (sec. 5), 148 (sec. 6).
10. Waterman, “Canadian Lord’s Day Act of 1906,” 115.
11. “Canada Coming to Her Own.” *The Christian Guardian* LXXVII, no. 24 (11 July 1906): 4 — A U.S. correspondent designated the religious divisions in Canada as Anglican, Roman Catholic and Non-conformist.
12. Indig, “Canadian Jewry,” Ch. VI, 182, n. 32.
13. *Ibid.*, Ch. I, 21, n. 113.
14. For a brief summary regarding Quebec’s claims, see H. B. Neatby, *Laurier and A Liberal Quebec; A Study in Political Management*, The Carleton Library, n. 63 (Toronto, 1973), 162-164; M. Wade, *The French Canadians, 1760-1967*, revised edition, I: 1760-1911 (Toronto, 1968), 546-548.
15. The scope of this paper limits itself to the Jewish struggle. Other members of the Non-

- conformist camp were Seventh-Day Adventists, Seventh-Day Baptists and other Gentile religions. In a larger perspective this struggle would be labelled A Religious Dissenting Minority Exemption.
16. E. Rosenberg, *The Jewish Community in Canada, I: A History* (Toronto, 1970), 176.
 17. M. M. Sperber, "Legislation in Canada Affecting Jews," in *The Jew in Canada*, ed. A. D. Hart (Toronto/Montreal, 1926), 463.
 18. Lower Canada, Laws, Statutes, etc., *An Act to declare persons professing the Jewish Religion entitled to the rights and privileges of other subjects of His Majesty in this Province*, 1832, 1 Wm. IV, ch. 57, *The Provincial Statutes of Lower Canada, 1831-1834*, XIV: 82; A. Brodey, "Political and Civil Status of the Jews in Canada" (Thesis for the Degrees of Rabbi and Master of Hebrew Literature, Jewish Institute of Religion, New York, 1933), 53-55 — The 1832 Act which was passed by the Quebec Legislature was limited to only natural born subjects. To vindicate this, the colony, Canada, passed Naturalization Acts so that Jewish rights would be applicable to naturalized British subjects. (These Acts were 4-5 Vic., ch. 7 and 54 Vic., ch. 7 [sic] [It should be 12 Vic., ch. 197.] The latter Act is found in C.S.C. 1859, ch. 8.) The Naturalization Acts passed after Confederation did not affect Jewish rights. (Also, see C.S.C. 1859, ch. 6 (sec. 4) — for Jewish voting rights.); *Ibid.*, 165 — Because certain oaths contained the words "on true faith of a Christian," Jews were unable to take those oaths. To alleviate the problem, the colony, Canada, disposed of taking certain oaths. (This Act was 13-14 Vic., ch. 18.)
 19. M. E. Gordon, "Political and Legal Aspects of Jewish History in Canada" (A paper, Montreal, 1959), 4.
 20. Brodey, "Status of Jews in Canada," 2-9.
 21. Brodey, "Status of Jews in Canada," 54-55 — The Act was 14-15 Vic., ch. 175 (sec. 1). (See C.S.C. 1859, ch. 74 (sec. 1)).
 22. Schmeiser, *Civil Liberties*, 66; Brodey, "Status of Jews in Canada," 54-55.
 23. Schmeiser, *Civil Liberties*, 68-71, N.B. 70.
 24. D. Rome, "Anti-Semitism on the Scene" (Manuscript, Montreal, n.d.) 2-3; S. Dinin, *Judaism in a Changing Civilization* (New York, 1933), 4.
 25. Rome, "Anti-Semitism," 5.
 26. L. Rosenberg, *The Jewish Population of Canada. A Statistical Summary from 1851-1914*, *Canadian Jewish Population Studies*, no. 2, *American Jewish Yearbook XLVIII* (1946-1947); reprinted (Montreal, 1947), 25.
 27. L. Rosenberg, *The Demography of the Jewish Community in Canada*, *Canadian Jewish Population Studies*, Population Characteristic Series, no. 2, *The Jewish Journal of Sociology* I, no. 2 (December 1959); reprinted (Montreal, 1957), 221.
 28. Rome, "Anti-Semitism," 9.
 29. *Ibid.*, 7.
 30. B. G. Sack, *History of the Jews in Canada*, trans. by R. Noveck (Montreal, 1965), 153-156.
 31. Rome, "Anti-Semitism," 11.
 32. Rosenberg, *Jewish Population . . . Statistical Summary*, 15 — In 1901, 7,498 Jews lived in Quebec. The total Jewish population in Canada was 16,401.
 33. Rome, "Anti-Semitism," 3.
 34. *Ibid.*, 4.
 35. *Ibid.*, 31; Interview with D. Rome, Canadian Jewish Congress, Montreal, P.Q., 28 October 1974.
 36. J. O. Hertzler, "The Sociology of Anti-Semitism.
 37. Sack, *Jews in Canada*, 217.
 38. Rome, "Anti-Semitism," 4; S. W. Baron, "The Modern Age," in *Great Ages and*

- Ideas of the Jewish People*, ed. L. W. Schwarz (New York, 1956), 374 — Orthodox Judaism of eastern Europe was strict in its observance. Orthodox Judaism of western Europe resembled the old in its “unwaivering adherence to all the commandments.” Cohen, *Life in Modern Times*, 285 — Orthodox Judaism of western Europe differed from that of the east because the former theoretically acknowledged “the authority of the Oral Law, but in practice they mostly ignor[ed] it.”
39. J. Kage, *With Faith and Thanksgiving* (Montreal, 1962), 43; Hertzler, “Sociology of Anti-Semitism,” 73 — Whether the Jew is “Orthodox, Reformed, ‘liberal’, rationalistic or atheistic, he usually does not want to cease being a Jew. Jews as far apart in faith, conviction and modes of living . . . are one. . . .”
 40. Rome, “Anti-Semitism,” 29; I. Cohen, *Jewish Life in Modern Times* (New York, 1914), 166-167 — “The Sunday closing of shops and workshops is a main question in regard to which Jews are influenced less by party consideration than by religious motives and racial solidarity.
 41. C. Mayer, “Religious and Political Aspects of Anti-Judaism,” in *Jews in a Gentile World: The Problem of Anti-Semitism*, ed. I. Graeber and S. H. Britt (New York), 1942), 316; T. Parsons, “The Sociology of Modern Anti-Semitism,” in *Jews in a Gentile World: The Problem of Anti-Semitism*, ed. I. Graeber and S. H. Britt (New York, 1942), 102.
 42. I. Harburg, “Sabbath and Holy Observances,” *Central Conference of American Rabbis Yearbook* XLVII (1932): 337; Rabbi M. N. Kertznar, *What is a Jew* (Cleveland, New York, 1953), 151.
 43. Rome, Interview; Kallen, “Jewish Survival,” 14 — Emancipation according to the American Idea is “emancipation for rather than emancipation from, creative rather than defensive.” It gives the Jews “numerous amounts of freedom.” It is “the protection and cultivation.”
 44. Canada Parliament, *Parliamentary Journals* (Commons), XLI (1906): Appendix 1, Select Committee on Bill No. 12, Respecting the Lord’s Day — Minutes of Evidence, 27 April 1906, 182, Goldstein (hereafter cited, Minute of Evidence); Canada, Parliament, *Parliamentary Debates* (Commons), LXXVII (1906): col 6292, Barr, col 6303, Gagnong (*Parliamentary Journals*, hereafter cited, *Journals* Commons; *Parliamentary Debates*, hereafter cited, *Debates*, Commons).
 45. Minutes of Evidence, 27 April 1906, 183 Goldstein — e.g., In Quebec, cigar and fruit stores were allowed to stay open. See *Dupuis v. Blouin* [1916], 26 D.L.R. 127 (C.A. 1915). Under the application of the *Ejusdem Generis* rule, farmers were allowed to work on Sunday. See *The King v. Hamren* [1903], 7 C.C.C. 188; *Young v. Taylor* [1921], 3 W.W.R. 882.
 46. Minutes of Evidence, 19 April 1906, “Supplementary views of the Jewish Deputation upon the Bill entitled the Lord’s Day Act,” 18.
 47. Minutes of Evidence, 27 April 1906, 184, Goldstein.
 48. *Ibid.*, 19 April 1906, “Supplementary Views . . . Jewish Deputation,” 18.
 49. *Debates*, Commons, LXXVII (1906): col. 6287-6288. Macdonell, col. 6303, Bergeron.
 50. “Hebrews and the Lord’s Day,” *The Lord’s Day Advocate* II, no. 11 (August-September 1905): 7; Minutes of Evidence, 19 April 1906, “Why Seventh-Day Adventists Oppose the Sunday Bill,” 29; Israel, “Occupations of Jews,” 265 — Actual figures for Jews who were classified as working at various occupations were not available until 1926; Kage, *Faith and Thanksgiving*, 29-31, *passim*.
 51. *The London Jewish Chronicle*, 13 July 1906, Interview with Rabbi Mendola de Sola.
 52. *The Montreal Herald*, 20 March 1906, Alasn Judah Bart.
 53. *The Montreal Star*, 16 March 1906.
 54. *The Montreal Herald*, 22 June 1906, quoted in Alliance, *Lord’s Day Alliance Clips 1906-1907*, Snapshots at Parliament, 1.

55. *The Montreal Star*, 16 March 1906, Disraeli Club Convention, 24 March 1906, Harris Vineberg; Minutes of Evidence, 19 April 1906, "Memorial Submitted to the Government of Canada by a deputation of Jewish citizens with regard to the Bill concerning the observance of Sunday, entitled 'The Lord's Day Act,'" 17.
56. Minutes of Evidence, 27 April 1906, 185, Goldstein; 19 April 1906, "Jewish Deputation," 16.
57. Rosenberg, *Jewish Community in Canada*, 178. Also, *Ibid.*, 179-181, *passim* — This Jewish deputation became the Jewish Legislative Committee which was established in 1909 as a standing committee "dedicated to the defence of Jewish civil [secular] rights in Canada."
58. *The London Jewish Chronicle*, 13 July 1906, Mendola de Sola — Canadian papers, *The Ottawa Evening Citizen* and *The Montreal Star*, on March 15, 1906 also listed the members of the Jewish deputation. However, those papers were incomplete as compared with *The London Jewish Chronicle*. The only name which appeared in the Canadian press coverage which did not appear in *The London Jewish Chronicle* was L. Sapery. The other notable difference was the Canadian press listed M. Workman from Toronto while *The London Jewish Chronicle* listed him from Montreal.
59. A. D. Hart, ed., *The Jews in Canada* (Toronto and Montreal, 1926), 87-379, *passim*.
60. *The London Jewish Chronicle*, 13 July 1906, Mendola de Sola.
61. Minutes of Evidence, 19 April 1906, "Supplementary Views . . . Jewish Deputation," 18.
62. Minutes of Evidence, 19 April 1906, "Jewish Deputation," 15-17, *passim*.
63. *Ibid.*, 17.
64. Wilfrid Laurier, quoted in Rosenberg, *Jewish Community in Canada*, 179.
65. "Jews and Other Saturdarians Answered," *The Lord's Day Advocate* III, no. 6 (April 1906): 6.
66. *Ibid.*, 6-7.
67. *Ibid.*
68. *Ibid.*, 7.
69. *Ibid.*, 6-7.
70. *Ibid.*, 7.
71. Alliance, *Letterbook Correspondence, 1905-1906*, J. G. Shearer to J. B. Mitchell, School Board Office, Winnipeg, Manitoba, Toronto, 23 March 1906, 483.
72. *The Montreal Gazette*, 17 March 1906.
73. Rome, "Anti-Semitism," 28.
74. Minutes of Evidence, 19 April 1906, "Who is Behind the Times — Rabbi Replies to Reverend," 14; *The Montreal Herald*, 20 March 1906, Alan Judah Hart; *The Montreal Star*, 24 March 1906, Harris Vineberg.
75. Minutes of Evidence, 19 April 1906, "Behind the Times," 13-14, *passim*; *The Toronto World*, 22 March 1906, Rabbia L. Weiss; *The Montreal Star*, 21 March 1906, Mendola de Sola."
76. *Ibid.*
77. *Ibid.*; *The Montreal Gazette*, 19 March 1906, Lewis A. Hart.
78. Minutes of Evidence, 19 April 1906, "Behind the Times," 14; B. Z. Dihur, *Israel and the Diaspora* (Philadelphia, 1969), 66-76 — He divides the diasporic history of the Jews into eight chronological periods.
79. Minutes of Evidence, 19 April 1906, "Behind the Times," 14-15.
80. *The Montreal Star*, 21 March 1906, Mendola de Sola.
81. *Ibid.*, 29 March 1906, Anglican; *The Ottawa Witness*, 24 March 1906, W. G. N.; *The Montreal Gazette*, 19 March 1906, A. E. Taylor.

82. *The Ottawa Witness*, 16 March 1906.
83. *The Montreal Star*, 17 March 1906.
84. *The Toronto News*, quoted in "The Press and the Lord's Day Bill," *The Lord's Day Advocate*, 8.
85. *The Montreal Star*, 24 March 1906.
86. *Ibid.*, 28 March 1906.
87. *Ibid.*, 29 March 1906, Anglican.
88. *Ibid.*, 28 March 1906, Christian.
89. *The Montreal Gazette*, 28 March 1906.
90. *The Montreal Star*, 31 March 1906.
91. *Debates*, Commons, LXXIV (1906): col. 1203.
92. *Debates*, Commons, LXXIV (1906): col. 1203; *Journals Commons*, XLI (1906): 192 — Schaffner replaced Roche.
93. *Parliamentary Guide*, 1905 (Ottawa, 1905); *Parliamentary Guide*, 1907 (Ottawa, 1907); J. K. Johnson, ed. *Canadian Directory of Parliament, 1867-1967* (Ottawa, 1968).
94. Alliance, *Minute Book 1901-1918*, Annual Meeting of the Executive Board, 9 November 1906, 56 — H. B. Ames, Vice President; *Ibid.*, 9 November 1905, 47 — R. Smith, President of the British Columbia Alliance; *Parliamentary Guide, 1905*, 149 — R. Smith, liberal — labourite.
95. Minutes of Evidence, 24 April 1906, 125 — Dr. Black.
96. *Debates*, Commons, LXXIV (1906): col. 1205, Fitzpatrick.
97. Rosenberg, *Jewish Community in Canada*, 179.
98. Minutes of Evidence, 27 April 1906, 182, Goldstein.
99. *Ibid.*, see Indig, "Canadian Jewry," Ch. I, 26, n. 145-147.
100. *Ibid.*, 27 April 1906, 182, Goldstein.
101. *Journals*, Commons, XLI (1906): Appendix No. 1, Select Committee on Bill No. 12, Respecting the Lord's Day — Minutes of Proceedings, 19 April 1906, v (hereafter cited, Minutes of Proceedings).
102. *Ibid.*, v — xiv, *passim*.
103. *Journals*, Commons, XLI (1906): 181.
104. Minutes of Proceedings, v — xiv, *passim*.
105. *Ibid.*, 19 April 1906, viii.
106. *Ibid.*, 27 April 1906, xi.
107. *Ibid.*, x; Minutes of Evidence, 27 April 1906, 184 — Schaffner was not listed as being present when the meeting convened but his name appeared during the questioning of Goldstein.
108. *Ibid.*, 184 — "and habitually."
109. Minutes of Proceedings, 27 April 1906, xi.
110. Minutes of Evidence, 27 April 1906, 185-186, *passim* — If one worked on Sunday, he could not work on Saturday.
111. *Ibid.*, 186, Questioned by Pringle.
112. *Ibid.*, 185, Suggested by Ames.
113. *Ibid.*
114. *Ibid.*, see Below, Ch. V, n. 28, n. 30, N.B. n. 30 IV.
115. Minutes of Evidence, 27 April 1906, 182, Suggested by Ames.
116. H. Broom and E. Hadley, *Commentaries on the Laws of England*, I (London, 1869), 2.

117. Minutes of Proceedings, 27 April 1906, x.
118. Minutes of Evidence, 27 April 1906, 146-147 — Shearer filed his statements; *Ibid.*, 177, 187 — Shearer spoke.
119. See *Above*, Section II, n. 64-68.
120. Minutes of Proceedings, 1 June 1906, xiii; *The London Jewish Chronicle*, 13 July 1906, Mendola de Sola — It was stated that after the first session of voting on the various amendments, there was a tie on the Jewish proposal.
121. Minutes of Proceedings, 1 June 1906, xii.
122. Minutes of Proceedings, 1 June 1906, xii; *Debates*, Commons, LXXVII (1906): col. 6306, Miller, col. 6307, Piché; "The Battle at Ottawa. The Bill Reported by the Committee with Modifications," *The Lord's Day Advocate* III, n. 8 (July 1906): 5.
123. See *Above*, Ch. I, n. 102(b).
124. *Debates*, Commons, LXXVIII (1906): col. 6306, Miller.
125. *Ibid.* — Miller would not name the member. After discerning how the various members would vote on Section 11 in the House and transposing the statements to those gentlemen on the select committee and how they would have voted there, this author contends that this anonymous member is restricted to one of four people; Geoffrion, Macdonald, Pringle or Sinclair. Fitzpatrick was not considered because he was Chief Justice when the House debated Section 11.
126. *Ibid.* — This author contends this is the ONE and ONLY reason.
127. Rosenberg, *Jewish Community in Canada*, 180; *Debates*, Commons, LXXVI (1906): col. 5636, Bourassa; LXXVII (1906): col. 6313, Fielding — He indicated that the marginal note to Section 11 read "Exception as to Jews, etc."
128. Indig, "Canadian Jewry," Ch. I, 5, n. 29.
129. Alliance, *Sunday Laws and the Seventh-Day People*, Booklet no. 10 (Toronto, n.d.), 2-3, *passim*.
130. Alliance, *The Lord's Day Act and Seventh-Day People* (Toronto, Circa, 1907), 2.
131. "Jews and Other Saturdarians Answered," *The Lord's Day Advocate* III, no. 6 (April 1906), 6.
132. Alliance, *Laws . . . Seventh-Day People*, 4.
133. "The Battle at Ottawa. The Bill Reported by the Committee with Modifications," *The Lord's Day Advocate*, 5.
134. Alliance, *Laws . . . Seventh-Day People*, 4; *Journals*, Commons, XLI (1906): 61-321, *passim* — Between March 12, 1906 and June 1, 1906 inclusive, petitions which the House received that the bill before them become law (Section 11 not included in the measure at this time) numbered 289. (*Ibid.*, 142-321, *passim*.) The number of petitions supporting the religious dissenting minority numbered four. Three of those requested that no bill be passed which would interfere with religious liberty. (*Ibid.*, 190, 209, 239.) The last petition desired an exemption for Jewish farmers. (*Ibid.*, 115.) The ratio of passing the measure inviolate, without a Jewish exemption, was 72.12:1.
135. "The Battle at Ottawa. The Bill Reported by the Committee with Modifications," *The Lord's Day Advocate*, 5.
136. Waterman, "Canadian Lord's Day Act of 1906," 116.
137. *Debates*, Commons, LXXVI (1906): col. 5790, Taylor; LXXVII (1906): col. 6306, Miller, col. 6283-6285, R. Smith; Alliance, *Correspondence 1905-1906*, J. G. Shearer to Rev. R. Emmett, Toronto, 7 May 1906, 533.
138. *Laurier Papers*, vol. 415, J. G. Shearer to Archbishop Bruchesi, Ottawa 2 June 1906, 110871-110872.
139. *Ibid.*, Archbishop Bruchesi à Sir Wilfrid, Montréal le 4 juin 1906, 110869.
140. *Ibid.*, Laurier à Monseigneur Bruchesi (A l'Archévêché, Montréal), Ottawa le 8 juin

- 1906, 110873.
141. *Ibid.*, vol. 416, Paul Arch de Montréal à Sir Wilfrid, Montréal, 13 juin 1906, 111157-111158.
 142. *Ibid.*, 111158-111159.
 143. *Ibid.*, Laurier à Sa Grandeur Monseigneur Bruchesi A L'Archêvêché Montréal, Ottawa, le 16 juin 1906, 111161-111162.
 144. *Ibid.*, vol 415, H. H. Miller, Esq., M.P., to Sir Wilfrid Laurier, Ottawa, 2 June 1906, 110832.
 145. P. D. Stevens, "Laurier, Aylesworth and the Decline of the Liberal Party in Ontario," *Canadian Historical Association Historical Papers* (1968): 101.
 146. *Ibid.*, 96-98, *passim*.
 147. *Laurier Papers*, vol. 415, H. H. Miller, Esq., M.P., to Sir Wilfrid Laurier, Ottawa, 2 June 1906, 110832.
 148. Stevens, "Liberal Party in Ontario," 96.
 149. *Ibid.* — Out of the thirty-eight Liberal seats from Ontario, five were held by Roman Catholics, four by Others; twenty-nine by popular Protestant sects of which the Presbyterians held fifteen seats. *Laurier Papers*, vol. 3, Laurier to Thomas Gibson, 16 May 1899, 33561 — Laurier recognized that the "backbone" of the Liberal party in Ontario was "the Presbyterian element."
 150. *Ibid.*, vol. 415, Laurier to H. H. Miller, Esq., M.P., Ottawa, 4 June 1906, 110834.
 151. Alliance, *Correspondence 1905-1906*, J. G. Shearer to Rev. R. Emmett, Toronto, 7 May 1906, 533-534.
 152. *The Jewish Times* (Montreal), 13 July 1906.
 153. Mendola de Sola, *Scrapbook*, "Text of the Appeal to the Members of Parliament Regarding the Sunday Observance Bill."
 154. *The Jewish Times* (Montreal), 13 July 1906.
 155. Rome, "Anti-Semitism," 29.
 156. de Sola, "Text . . . Appeal . . . M.P.'s."
 157. *Ibid.*
 158. Baron, "The Modern Age," 318.
 159. Rosenberg, *Jewish Community in Canada*, 180.
 160. Rome, "Anti-Semitism," 31.
 161. *Debates*, Commons, LXXVI (1906): col. 5636-5637.
 162. *Ibid.*, LXXVII (1906): col. 6283; Rosenberg, *Jewish Community in Canada*, 180. Also, see *Debates*, Commons, LXXVII (1906): col. 6280-6283, *passim*, Bourassa.
 163. *The Jewish Times* (Montreal), 13 July 1906.
 164. Rosenberg, *Jewish Community in Canada*, 179.