Prior to the case of Harvey Grotsky et al., versus the Protestant School board of Greater St. Martin (PSBGStM) et al., there was never Jewish representation on any Quebec school board yet Jews were legally obliged to pay school taxes. The outcome of the case, initiated by Chomedey ‘upstarts’ somewhat to the chagrin of ‘official’ Montreal Jewry, marked the beginning of the end of that anomaly.

The City of Chomedey, a dormitory suburb of Montreal on adjacent Ile Jésus, had recently been created by the merger of the towns of St. Martin, l’Abord-à-Plouffe and Renaud. In the late 1950s a building boom transformed surrounding farmland into bustling new communities of mainly single-family homes. In May 1960 the Protestant School board of Greater St. Martin (PSBGStM) was formed, with newly enlarged St. Martin and l’Abord-à-Plouffe as two of its electoral wards, to provide schooling for children of the mostly Jewish and Protestant owners of the new homes.

One evening in May 1961, some two years after moving into our new home in St. Martin, Harvey Grotsky rang our doorbell. He introduced himself as a fellow home-owner wanting to apprise his neighbours of a situation he felt was tantamount to taxation without representation. His children went to one of the PSBGStM elementary schools, as did most children in the area, including mine. Interested in the quality of their...
education and curious about the organization of the school system, Grotsky had recently visited the school board offices and learned from its Secretary-Treasurer, Mr. C. Brandwood, that a school board election was due in July. When Grotsky asked what qualifications were required of candidates, he was told that being Protestant was one. As the laws of Quebec then required its Jewish property owners to pay taxes to “the school corporation in the municipality which administers Protestant public schools,” I saw that Grotsky was absolutely right—this was indeed a situation of taxation without representation.

I invited Grotsky to come in and telephoned my neighbour, Leon Blauer, to ask him to join us. Blauer headed the St. Martin Home-Owners Association and edited its popular newsletter, *The Suburbanite.* He already knew of the coming school board election and its secretary’s negative position, and was planning to oppose it. But to me Grotsky’s message was a disturbing revelation. As we began to discuss possible courses of action, Blauer agreed that the issue merited a wider response than just from the home-owners association, and we quickly realized that our first step must be to consult a lawyer.

A few days later we met with Harold Ashenmil and Julian Kotler, two young Montrealers who had recently started practicing law. They instantly grasped the importance of the principles involved, and seemed intrigued at the idea of acting for the plaintiffs in what would be a high-profile civil rights case whose outcome could affect most Jewish communities in Quebec. They wanted a few days to consider possible courses of action, and suggested that we should meanwhile form an ad-hoc committee representative of our community.

Their suggestion soon led to the formation of the Chomedey Equal Rights Association (CERA), a single-purpose committee made up of leading members of the St. Martin and l’Abord-à-Plouffe Jewish communities. Harry Leibovitch was elected Chairman; Dr. Norman Brudney and the author, co-Vice-Chairmen; Gerry Weinstein, Secretary-Treasurer; Sid Udashkin, Serge Haber and Leon Blauer, directors. As Harvey Grotsky
was to be the candidate in the election and was very busy then in his job as an advertising sales representative for the *Montreal Star*, he opted out of active participation in the committee.

Given its well-known custom of rapprochement and dialogue with government and public institutions, we hardly expected the Canadian Jewish Congress (CJC) to endorse our direct-action intentions. But since the injustice we were preparing to fight affected virtually every Jewish community in Quebec, we felt it would be proper to apprise them of our intentions and solicit their support. We met with several CJC officers and its Executive Vice-President, Saul Hayes. As expected, they were less than infatuated by our plans, yet they did offer to provide expert legal counsel for our lawyers in the persons of Jean Martineau, QC, and McGill University’s Dean of Law Frank Scott. We agreed mainly because our attorneys recommended we do, but with reluctance as we feared this would give CJC an inside track on our actions.

Our attorneys’ first thoughts were to seek an injunction to halt the election, as well as a court-order obliging Brandwood to accept Grotsky’s nomination. Jean Martineau felt, however, that the prospects of succeeding by those tactics were remote. At his suggestion, they decided to await the election, then take court action to have it annulled and have Grotsky declared eligible as a candidate for a new election. Our case would be based primarily on the provisions of Part 10 of the Education Act, which dealt specifically with ‘Education As Regards Persons Professing The Jewish Religion.’ Its opening paragraph (574) reads:

Any provision to the contrary notwithstanding, in every municipality of the Province, whether governed as regards schools by this act or by a special act, persons professing the Jewish religion shall, for school purposes, be treated in the same manner as Protestants, and, for such purposes, shall be subject to the same obligations and shall enjoy the same rights and privileges as the latter.
We needed two qualified electors as Grotsky’s nominators, and five to act as the petitioners in the court case. For these roles we sought people who were both principled and resolute, and able to withstand pressure from those of the ‘don’t-rock-the-boat’ mentality whom we saw as well-meaning but misguided. We decided to publish a special newsletter, under Leon Blauer’s management, to mobilize community support and keep our community informed.

The official notice appeared in two local papers on 23 June 1961, advising electors that nominations would be received at the school board office on July 3rd from 10 A.M. to 12 noon for School Commissioners for Ward 3 (l’Abord-à-Plouffe) and Ward 4 (St. Martin), and that election day would be July 10th.7

On nomination day Grotsky and his proposers, Shirley Bercovitch Rutman (wife of Lewis Rutman) and Edith Fuchs Bishinsky (wife of Charles Bishinsky, C.A.), appeared at the school board office to present his nomination papers for the Ward 4 seat. The air was tense when, as expected, Brandwood refused the nomination after explaining that Grotsky did not qualify because he was not a Protestant. Grotsky and his proposers objected formally, demanding that their objection be entered into the minutes. In contrast, Brandwood readily accepted the nominations of William Henderson and William Trelear for the Ward 4 seat.8

Rather than boycott the Ward 4 election, we urged electors to write-in the name Harvey Grotsky on the ballot. While the count showed Henderson officially elected by 31 votes against Trelear’s 11, we soon learned from a friendly school commissioner9 that over 100 write-in votes had been cast for Grotsky.10

Our attorneys soon had the necessary documents ready for signature. The five electors who agreed to be petitioners for the court case were Grotsky, his nominators (Shirley Rutman and Edith Bishinsky), Esther Gold Label (wife of William Label) and the author. The documents included the authorizations by the respective husbands for the three women to act as
petitioners, as was then required under Quebec law. When we called on Edith and Charles Bishinky for their signatures, we discovered that they had changed their minds about participating in the case.

This unexpected turn of events left us no choice but to find a willing and eligible replacement very quickly, as the petition had to be filed no later than fifteen days after the election. Knowing them to be fair minded and highly principled people, we approached my neighbours Howie and Rita Noel. Howie was an airplane technician with Trans-Canada Airlines (now Air-Canada), as well as a union steward. Just as we began to explain the situation, they interceded to say that they had been following the matter closely and would gladly help. As their home was in her name, it was Rita Marilyn Hodgson Noel who replaced Edith Bishinsky as a petitioner. It seemed ironic to us that a Protestant was embracing a cause that was essentially Jewish in place of a Jew who had backed off from doing so, particularly since our action was indirectly against the Protestant establishment.

Our attorneys promptly prepared a new set of documents, and we wasted no time in obtaining all the required signatures, so that our petition was filed with the Magistrate’s Court of Montreal well within the legal fifteen days after the election.

The essence of the petition was for the court to:

(1) annul the election held on 10 July 1961 for a Commissioner for the School Municipality’s Ward 4 and, accordingly, declare Henderson’s election to be null and void;

(2) declare Petitioner Grotsky to be eligible and qualified as a candidate for election as a Commissioner of the School Municipality;

(3) order a new election to be held, appoint a person to preside at such election and fix its time and date.

The petition was put on the court’s roll for hearing August 3rd. But on the appointed date Judge René Lippe postponed it to September 14th, with our consent, at the request of the PSBGStM’s lawyer, C.A.L. Hibbard, QC, who explained
that he required consultation with the Protestant Committee of the Council of Education at Quebec.\textsuperscript{11}

As it was the first legal action concerning Jewish representation on Quebec’s school boards since the Hirsch case of more than thirty years earlier, the case was followed closely by both the Protestant and Jewish establishments\textsuperscript{12} as well as by the Montreal-area English newspapers. The Hirsch case, against The Protestant Board of School Commissioners of the City of Montreal, ended when the Privy Council of Britain’s House of Lords’ upheld the rulings of Canada’s Supreme Court and a lower court on constitutional grounds, and concluded that:

1. Jews cannot be appointed to the Protestant Board of School Commissioners of the City of Montreal (PBSCCM);
2. The PBSCCM has no obligation to appoint Jewish teachers;
3. Quebec cannot pass legislation providing that Jews be appointed to the PBSCCM, nor to the Protestant Committee of Public Instruction, except possibly as advisory members of those bodies depending on a definition of their powers.

The intervening years saw a state of tacit acceptance by ‘official’ Montreal Jewry of the Hirsch decision, and unwavering certainty by Protestant leaders that the question of Jewish representation on Protestant boards was settled once and for all. It was almost as if a gentlemen’s agreement of sorts existed between the two. Since our action violated that unwritten understanding, the CJC did not hide the fact that the case was initiated by Jewish residents of Chomedey acting entirely on their own.

Characteristic of CJC anxieties on ‘the St. Martin issue’ are the following excerpts from a hand-written memo dated 10 July 1961 (date of the PSBGStM election) from ‘Moishe’ to Saul (Hayes);

I am inclined to believe that one of the reasons for the friendliness on the part of our government is that Canadian Jewry behaves with restraint, with dignity, with a measure of logical consis-
tency—no noise, no arrogance, no ton of telegrams, no massive protest meetings on the least provocation, no delegations.

I know we are already committed to this course of action. I also have full sympathy for the justified emotional disturbance on the part of these Jewish young parents. But unfortunately the issue will not be fought on ‘Jew deemed Protestant’ as meaning rights as well as obligations. Before you can say Jack Robinson the issue will develop into an attempt on the part of the Jews to undermine the constitutional rights of the poor little Protestant minority in a French Canadian Catholic province with increasing secessionist movements.

Anyway, I am disturbed and unhappy about it.13

On August 1st the Montreal Star carried an article, “School board Contestant Files Protest,” briefly summarizing our petition. Their August 4th article, “Annulment Petition Case Set Over to September 14,” included a comment by the PSBGStM’s lawyer, C.A.L. Hibbard, QC, that “the issue had been dealt with and ruled on by the Judicial Committee of the Privy Council more than 30 years ago,” in obvious reference to the Hirsch case, and an editor added: “The litigation involved schools in Montreal, and decided that Jews had no rights to representation on the Protestant Board.” The Montreal Gazette of August 4th had a more elaborate article containing all the pertinent details, entitled “Rights of Jewish Ratepayers—Lively Legal Battle Looms,” which was likely written by their veteran court reporter, Leon Levenson.14

The ‘Grotsky case,’ as it quickly became known, had by now aroused the interest of most English-speakers in the Montreal area. While the vast majority of Jews (and some non-Jews) in our community fully supported our action, there was the odd phone call to CERA committee members arguing that we should ‘leave well enough alone and stop rocking the boat.’
Although our school board meetings had previously been sparsely attended by the public, every meeting now had an audience of both Jews and Protestants. CERA activists pointedly attended every meeting during the several months the case dragged on, always alert to any reference to the case. It also provided an opportunity for us to meet ‘the opposition.’ After one such meeting I found myself discussing the case with the minister of the nearby Baptist church, whom I asked how could he in good conscience condone a situation whereby people had to pay school taxes but were denied representation. He replied that he had no objection to a Jew being a member of the school board, but was concerned only that this might lead to religious teaching in the schools becoming secularized. Another discussion I had on such an occasion, this time with a school board member, provided a hint as to the quality of our ‘opposition.’ To refute a remark he made concerning a particular aspect of the case, I observed that it was merely a matter of semantics. ‘Oh no,’ he responded with a tone of hurt in his voice, ‘I’m not anti-Semitic!’

At one point Blauer had a phone call from one of the school commissioners to inquire if we would settle for a Protestant candidate of our choice to specifically represent our Jewish community. That proposal, which Blauer totally rejected, may well have been a consequence of behind-the-scenes discussions, of which we were only vaguely aware at the time, between Congress and the Protestant School board of Greater Montreal (PSBGMTl).

The hearing scheduled for September 14th was also postponed, again at the request of Mr. Hibbard (likely to facilitate the aforementioned discussions) and with our consent, this time to November 20th.

As the new date drew closer we were invited to meet on November 14th with Saul Hayes and other CJC officers. We accepted the invitation reluctantly, as we assumed that CJC had an agenda of its own (not to vex the Protestants) and feared they would try to influence the case to suit that agenda.
the meeting for CJC were Harold Lande, QC, Monroe Abbey, QC, Saul Hayes, Mr. S.D. Cohen and Samuel Lewin. On our side were Leon Blauer, Harold Leibovitch, Harold Ashenmil, Julian Kotler and the author.16 Their queries were mainly of the ‘what-if’ kind, such as; whether to appeal if we lost the case, or what if we won and the school board appealed.17 In the discussion that followed we stated several times that we would appeal to the Supreme Court of Canada if necessary, using words we hoped would tell them that the final decision would be ours alone should those questions ever arise. We learned soon enough however, that CJC was quite capable of imposing its opinions in instances where the last word was rightfully ours.

On November 20th, when we thought the case would finally be heard, our attorneys informed us that they had consented to attorney Hibbard’s request for yet another postponement, to 26 February 1962, at CJC’s recommendation. It was not known to us at the time that CJC’s recommendation was made in consideration of their ongoing negotiations with the PSBGMtl,18 of which we were still only vaguely aware. We were displeased by the news, and would have been even if fully aware of CJC’s motives. As we saw it, CJC had intervened in the case behind our backs and we were piqued that our attorneys had acted on their recommendation without consulting us beforehand.

While we were very pleased with our attorneys’ handling of the case thus far, we felt that to overlook the incident would be like ceding control to CJC. We therefore sent a polite but firm letter to Ashenmil and Kotler pointing out that as we alone were their clients in the case, we expected them not to act on the instructions or advice of anyone else without our prior consent. They readily accepted our position, and on 16 January 1962 sent a photocopy of our letter to Saul Hayes without comment except that it “speaks for itself.”

To Congress and the Protestant leadership the exclusion of Jews from school boards was a ‘problem’ attributable to the constitutional legalities of the Hirsch case. But these legalities got little sympathy from the public at large, who saw the exclu-
sion of Jews from Protestant school boards as simple bigotry which was no longer acceptable in the 1960s. A face-saving way out was presently provided to the respondents by Mr. Peter Laing, an attorney for the Protestant School board of Greater Montreal involved in the negotiations with CJC. After studying a point raised by CJC, Mr. Lang concluded that the Greater St. Martin board differed from the boards of the Hirsch case in that it was an order-in-council board, and was therefore not necessarily constrained by any ‘constitutional obstacle’ to having Jews on its board. It was on the basis of this first-time-ever distinction, prepared by Laing as a formal opinion in conjunction with Julian Kotler, that the Protestant School board of Greater St. Martin decided, at a special meeting held on 14 February 1962, not to contest our petition.19 The next day the Montreal Star reported the news in an article headed, “A School Board Does The Right Thing.”

The court hearing on February 26th was very brief. Attorney Hibbard simply filed a consent to judgment, indicating that his clients would not contest the case but would accept a judgment according to the petition.20

Although delighted that the school board had conceded defeat, it was a let-down of sorts that a judgment in our favour would be forthcoming without all the arguments of both sides having been heard. We also thought it would therefore carry less weight than otherwise as a legal precedent. Nevertheless, we basked in our victory, particularly after Magistrate René Lippe rendered his judgment.

The five-page judgment, given on 15 March 1962, was mainly a review of the case closing with this all-important paragraph;

THE COURT DOTH GRANT the petition; DECLARES null and void the election of the Commissioners to the Respondent School Corporation in Ward 4, held on July 10th, 1961; ANNULS the election of Respondent William Cameron Henderson at this election;
DECLARES Petitioner Grotsky eligible and qualified as a candidate for election as a Commissioner to the Respondent School Corporation; ORDERS a new election to be held on April 2nd, 1962, at the School board Offices, Hillcrest School, 1125 Elizabeth Blvd., St. Martin, Chomedey, under the same conditions as that held on July 10th, 1961; APPOINTS the Secretary-Treasurer of the said Respondent School Corporation of St. Martin, Mr. Brandwood, to preside at such election; ORDERS the presiding officer to accept the nomination of the Petitioner Harvey Grotsky or any other qualified person according to law as candidate in said election; the whole with costs against the Respondent School Corporation.

On March 16th the Montreal Star reported the news of the judgment in its article, “New School board Election. Jewish Candidate Allowed To Run,” beginning with the observation: “The principle of ‘no taxation without representation’ has paved the way for a young Jewish advertising representative to be the first person of his faith to serve on a Protestant school board in the Province of Quebec.” It so happened, however, that Harvey Grotsky, apparently content with having made his point and very busy in his job with the Montreal Star, decided not to run in the new election. The distinction of being the first Jew to serve on a Protestant school board in Quebec thus went to Harold Schneider, C.A., who was elected by acclamation.

The value of the judgment as a legal precedent was never put to the test. At subsequent PSBGStM elections the nominations of Jews were always accepted without question. Jewish representation on the board grew over the years and at one point even its chairman was Jewish.

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The prominence of the Grotsky case, coming as it did at a time when public interest in the problems of Quebec’s educational system was steadily increasing, glaringly highlighted the fact of
Jewish inequality in that system. In addition, the successful conclusion of the case demonstrated that it was possible to correct the anomaly by assertive action. The confidence of those troubled by the exclusion of Jews from school boards was evidently bolstered by the Grotsky case and its outcome, to which the chain of events that occurred over the next few years amply testify. I shall describe some of these events briefly.

After tacitly accepting the Hirsch case judgment for so many years, CJC now decided to try for Jewish representation on the Protestant School Board of Greater Montreal. Informal talks between Samuel Godinsky, QC, and attorney T. Palmer Howard led to first-time ever discussions on the subject in 1964 between the CJC and the PSGStM. An understanding was ultimately reached, which became law in July 1965, whereby the PSBGMtl would be enlarged from 16 to 25 members of whom five would be appointed by the Lieutenant Governor of Quebec on the recommendation of CJC. The arrangement was not universally applauded, as it was seen by many as a step backward largely because it fixed a quota on Jewish representation.

In May 1965, before the deal re Jewish representation on the PSBGMtl became law, Jewish residents of Hampstead took action to seek the inclusion of Jews on their school board’s electoral lists. Their brethren in Town of Mount Royal and St. Laurent followed suit over the next few years. In common with the Grotsky case, the three actions were initiated at the grassroots level, and the attorneys for the claimants were none other than Ashenmil and Kotler. Before these actions could be resolved by the courts however, Quebec passed legislation recommended by the Parent Commission which removed the legal obstacles to Jews serving on ‘dissentient’ school boards—a classification that applied to the Hampstead, Mount Royal and St. Laurent Protestant school boards.

The year 1964 saw the first-time-ever appointment of a Jew, Dr. David Solomon, to Westmount’s Protestant School board although it was always legally permissible for them to do so. This was followed by the 1969 appointment of Muriel
Kaplan to the same board, which later (in January 1972) elected her to sit on the PSBGMtl as its representative. This created a dilemma due to the ‘quota’ on Jewish representation on the PSBGMtl; the lady could not take her seat since that would increase Jewish membership on that board to above the ‘legal’ limit. As none of the five appointees agreed to step down initially, the much-publicized impasse lasted several weeks until Samuel Godinsky, QC, finally resigned because “it was more important to seat an elected representative than an appointed one.”

The Grotsky case seems to have also affected the attitudes and thinking of the ‘opposition.’ Early in 1965, when Congress and the PSBGMtl were engaged in their discussions concerning Jewish representation, the president of the PSBGMtl, John Rowat, publicly commented that “there is a change in the attitude and feeling of the Protestant community toward the Jewish community.”

In retrospect, it seems abundantly clear that the Grotsky case contributed more than any other single event to the process of change that resulted in Quebec Jews finally enjoying equal rights in the educational system. It is well to reflect what might have been the case today, had Harvey Grotsky and the Chomedey ‘upstarts’ decided not to contest that injustice of long-standing, an injustice which for decades went uncontested by ‘official’ Jewry.

When we received Ashenmil and Kotler’s modest $2500 invoice for legal fees, our ad hoc committee met to consider how to pay it. Since our financial resources were rather limited, I was delegated to investigate the possibility of Congress picking up the tab. In my ensuing meeting with Saul Hayes I explained that we had no choice but to organize a campaign to raise the funds we needed to pay our legal costs, but were fearful that this might embarrass Congress. After all, it would surely raise the question of why Congress hadn’t offered to pay all costs in a case of such importance to the entire Jewish community. The message was not lost on Hayes, who promptly
replied, ‘Why not leave it with me and I’ll see what I can do.’ I gave him the invoice, and that was the end of the matter.

In obvious recognition of our active participation in the Grotsky case, Harold Leibovitch and the author were invited to be delegates at the Plenary Session of the Canadian Jewish Congress held in late June 1962. Only one recollection of that Session is still with me today, perhaps because it helped me understand CJC’s initial reluctance to back us fully in our action. During a recess of the Plenary Session an older gentlemen came over to tell me that while he greatly admired our stand in the Grotsky case, he himself could never have acted as we did. He went on to explain that when he left his shtetl in Eastern Europe years earlier, he left behind violent pogroms and the most brutal kind of anti-Semitism imaginable. When he got to Canada, it was like arriving in heaven after having escaped from hell. Considering how Jews had been treated in his shtetl, it was hardly important to him that Jews were not quite first-class citizens in his adopted ‘heaven.’ He was therefore not inclined to risk upsetting the status-quo by rocking the boat over a matter of ‘mere taxation-without-representation.’ I understood him perfectly, and was thankful that a new generation had grown up whose readiness to fight for their rights was not hampered by such horrendous memories as his.

ENDNOTES

1This study is based on recently obtained documentary evidence, and the author’s memory as supported by the recollections of others who were deeply involved in the case: Leon Blauer, Harvey Grotsky and the attorneys Harold Kashenmil, QC and Julian Kotler, QC. I am grateful to them, as well as to Arlette Corcos, for their unstinting help in my quest for accuracy. Many thanks, as well, as to Janice Rosen of the CJC Archives for her invaluable help in locating the relevant documents I sought.

2Chomedey merged in 1965 with all other municipalities of Ile-Jésus to create the City of Laval.
Petition to Magistrate’s Court of Montreal dated 13 July 1961; paragraph 2.

Clause 575, Quebec Education Department Act, R.S. 1964, c 233.

Chomedey Citizen, 22 March 1962.

Julian Kotler to author, e-mail 11 January 1999.

Petition to Magistrate’s Court of Montreal dated 13 July 1961; paragraph 4.

Ibid, paragraphs 7, 14, 17.

Steve Bodi.

Petition to Magistrate’s Court of Montreal dated 13 July 1961; paragraphs 20, 21.

Montreal Gazette, 4 August 1961.


Comparison with other hand-written documents indicates writer was Moishe Meyerson. The document is in the National Archives of Canadian Jewish Congress-Montreal (hereafter: N-CJC), 36/809A.

Julian Kotler to author, e-mail 11 January 1999.

Leon Blauer to author, e-mail 6 January 1999.

Memo to Samuel Lewin dated 6 November 1961, N-CJC, 81/809A.

Handwritten notes on the meeting, probably by Saul Hayes. N-CJC, 81/809A.

Julian Kotler to author, e-mail 11 January 1999.

Ibid.

Ibid.

Arlette Corcos, Montréal, les Juifs et l’école (Québec, 1997), p. 124.

Ibid.

Telephone discussion with Mr. Godinsky, Montreal, 14 September 1998.


28 Created by Quebec government May 1961 to study the organization and financing of education. Corcos, Montréal, les Juifs et l’école, p.124.

29 Ibid., p. 144.

30 Ibid., pp. 142-146; Canadian Jewish News, 4 February 1972.

31 During a radio interview with Betty Shapiro. Corcos, Montréal, les Juifs et l’école, p. 132.

32 Chomedey Citizen, 7 June 1962.