

Hirsch v. Protestant School Board: a testament to division in Montreal's Jewish Community, 1920-1930

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*Montreal's geographical, social, political, educational, and historical spheres have been indisputably influenced by the Jewish community as early as the British Conquest of New France. While making vast contributions to the society, the Jewish community has been met with a fierce anti-Semitism. Thus, in Quebec, a government-mandated division between Catholic and Protestant schools furthered the plight of Jewish children and their families. This division ultimately excluded an influential cohort of people in Montreal- its Jewish schoolchildren. Yet, many scholars advance that idea that the Jewish population was given the right to choose between Catholic and Protestant schools in exchange for their tax dollars and some freedoms. This assumption ignores the pervasive anti-Semitism in Montreal that led to a much different reality in terms of the rights of the Jewish community regarding education in the city. Jewish schoolchildren were most often allowed to attend Protestant institutions but were expected to engage in several types of assimilating and Christianizing narratives, consistent with the anti-Semitic society that engulfed them in their everyday lives. Nevertheless, this anti-Semitism did not erase the political and social agency that erupted within the community. Nonetheless, a division between the so called "uptowners" and their contending group, the "downtowners" culminated in what is now known as the Jewish School Question. As such, a landmark legal case, *Hirsch V. Protestant School Board* was a testament to division in Montreal's Jewish Community in the interwar period between 1920-1930. The dearth of study on this particular legal case prompted this research.*

Keywords: Jewish, Montreal, Quebec, Social History, class relations, assimilation, religious freedom, 20th century, school boards, community, inclusion, exclusion, interwar period, anti-Semitism, Protestant, migration

1 Introduction

Montreal's geographical, social, political, educational, and historical spheres have been indisputably influenced by the Jewish community as early as the British Conquest of New France. While making vast contributions to the society, the Jewish community has been met with a fierce anti-Semitism. As the provincial government mandated division between Catholic and Protestant school systems, Jews found themselves in a lonely third category of neither Catholic nor Protestant. As the dissident board, Protestant institutions rarely refused Jewish schoolchildren but expected them to engage in several types of assimilating and Christianizing narratives. Differences of opinions existed within the vibrant Jewry of Montreal as a poignant division between the so called "uptowners" and their contending group, the "downtowners" was especially apparent in the ways in which Jewish parents approached the question of education. Named the Jewish School Question, this centuries-long debate regarding where Jewish schoolchildren fit in Montreal's education system was



rife with anti-Semitism and cached racism. The views of the “uptowners” and the “downtowners” on education was particularly apparent during the interwar period. This split in Montreal’s Jewish community was evident in a 1927 court case and furthered the Jewish School Question in Montreal. *Hirsch V. Protestant School Board* was a testament to division in Montreal’s Jewish Community in the interwar period between 1920-1930. The dearth of study on this particular legal case prompted this research. I argue that the *Hirsch V. Protestant School Board* case of 1927 served as a milestone case in the historiography of the Jewish School Question and highlighted the anti-Semitic rhetoric and actions perpetrated against the Jewish community of Montreal during the interwar period.

2 Background on the Jewish School Question

The Jewish School Question in Montreal was not a single event in history. It evolved throughout the 19th and 20th century and was considered to be one of the most important issues facing Montreal’s Jewish community. In efforts to succinctly orient the discussion of this specific issue, Canadian Confederation can be used as a starting point. Ultimately, however, Montreal’s Jewish School Question should be considered as an example of the way in which a long history of anti-Semitism manifested itself in the current territory of Quebec over the past three centuries. When the British North America Act was passed in 1867, religious minorities that presently existed in the territory were given educational rights that were guaranteed by section 93 (Fraser, 2015, p. vii). In Quebec, this gave the Protestants and Catholics their right to continue instruction of pupils with interwoven denominational religious teachings. Yet, leaders of the Jewish faith were not afforded these same rights (Fraser, 2015, p. vii). Problematically, divides in the Jewish community between the “uptowners” and the “downtowners” created conflict in regards to the education of these Jewish minors. This distinct rift caused tension between Catholic, Protestant, and the question of whether there could be implementation of independent Jewish schools or Jewish schoolchildren should be situated within a Christian and anti-Semitic school system prevailed. “Uptowners,” a cohort of the community that was well-established in Montreal prior to the early 20th century immigration to the city regarded separate schools as a threat to assimilation of their children into a Canadian “sense of belonging”. On the other hand, the chiefly immigrant and working-class “downtowner” faction of the community collectively viewed a separate Jewish school system as a tool for cultural strength and promotion Jewish identity. Yet, both of these groups were confronted with the task of establishing roots and dismissing discrimination (Rome, 1991). The background story of the Jewish School Question in Montreal revolves primarily around the distinction of identity, anti-Semitism, and provincial and federal jurisprudence.

Identity

The issue of identity is particularly important in the understanding of the Jewish School Question in Montreal. First, there must be consideration that the community was not homogenous. Different languages, cultures, social classes, genders, ages, degree of religiosity, and political beliefs were united under a shared umbrella term: Jewish. As such, the Jewish population in Montreal cannot be viewed as an undifferentiated collection of people. Instead, it must be regarded as a social group with a few defining differences that unite the community but can also contain individual variants of opinions. As such, most



individuals within the Jewish communities viewed the Protestant system of education as more hospitable option for their children but were at odds with the few that actually preferred the Catholic alternative (Sancton, 1985, p.45). Still, others advocated tirelessly for the implementation of a separate Jewish school system that would not be associated with either of the existing boards. The reason behind this differentiation of opinions is that of identity. Some parents wanted their children, especially those that belonged to the “uptowner” faction of the community preferred that their children, through English and non-Jewish instruction, would assimilate themselves into the dominant culture. Of course, this mingling of cultures often exposed something insidious- the anti-Semitism woven into the fabric of Montreal society.

From the turn of the century, prior to the First World War, there was a visible increase in the number of Jewish immigrants to Montreal. The Jews were blamed for increased strain on the social order and financial difficulties during the interwar period and were seen as a group that caused a great problem for the education system “which was originally organized exclusively for the Roman Catholic and Protestant elements of the community” (Rexford, 1924, p.7). These Christian elements had a higher value attached to them as those who celebrated their Jewish identity the most publicly were ostracized and discriminated against.

Discrimination

Hopeful, “Jewish immigrants to Canada came to [Quebec] with an image of a nation where equality was the norm. When the influx of Jewish immigrants to Montreal was at its apex, from the 1880s to the 1920s, this idealized vision of Canada had been concretized.” (Rexford, 1924, p.7). Yet, both “uptowners” and “downtowners” alike were subjected to both hidden and overt anti-Semitism that often resulted in discrimination, particularly in regard to the education of schoolchildren. Sources from the time period often boasted that the reason that a school board should not allow Jewish pupils was a question of economics. Arguing that Jewish parents did not pay enough for their children’s education solidified the belief that their children should be excluded from the same rights and privileges afforded to Christian peers (Rexford, 1924, p.39). Yet, the real problem was the religious element and the parasitic anti-Semitism. The argument was that the “Jewishness” of the children in question could theoretically “impair the value of the [Protestant] schools as institutions for the training of children of Protestants as to constitute a violation of the guarantees given at Confederation to the Protestant minority for the continuation of their denominational schools” (Rexford, 1924, p.39-40). By arguing that the Jewish children’s presence was somehow disruptive to the “natural” flow of the system, anti-Semitism often was not openly addressed, but it was certainly felt by the Jewish community of Montreal. An example of this perceived interference that the Jewish schoolchildren inflicted on the Protestant school system was felt with comments that attributed the decreased working efficiency and financial security of the Protestant schools to the presence of Montreal’s youngest Jews (Rexford, 1924, p.41). Especially dangerous to this narrative would be the admittance of adult Jewish teachers and administrators into the Protestant system. This influx of talent and cultural diversity would have been viewed as something insidious and damning to the quest for the Protestants to educate their children in a certain way. Indeed, the idea of moulding good Canadian citizens was not without its Christian dominance (Rosenberg &



Weinfeld, 2014, p.291). Thus, anti-Semitic undertones reinforced the idea that “Protestant rate-payers of the city would [have] never consent[ed] to hand over to Jewish administration and control the splendid educational system and equipment which had been built upon the sacrifices of [the Protestant, Christian minority]” (Rexford, 1924, p.34). These subtle reactions to a Jewish presence in Protestant schools was unwelcoming and damaging to the community. As such, there was a pressure to solidify the rights of Jewish schoolchildren through the use of the law. However, the solutions proposed by different individuals and groups within and exterior to the Jewish community often were at odds with one another and created the legal basis for the Jewish School Question of Montreal that spanned for over a century.

Laws

The Jewish School Question permeated through lived experiences and manifested itself in laws. Accordingly, to better understand the great influence of the *Hirsch* case, we must first understand the legal environment surrounding that decision. As the dual confessional public school system in Montreal was dominated by the Catholic and Protestant boards was complementarily linguistically divided between French and English, it was common for Jewish families to choose the Anglophone, Protestant option. This option was significantly less demanding religiously than the Catholic schools too (Behiels, 1991, p.8). As more children were thrust into this Protestant system, parents and other community members naturally wanted to play a role in the formal education of their children. Many arranged themselves to promote their participation and secure placement on the School Board, as teachers, or administrative positions. Excuses circulated in the public sphere that the reason for the rejection of adult Jewish participation in Protestant schools or the creation of a third school board specifically for Jewish pupils was because it would be “too difficult” or “Jews pay too little taxes” (Rexford, 1924, p.47). However, in reality, the reasons behind this exclusion and hardship were much more complex.

In 1870, just three years following Canadian Confederation, the educational legislation in the City of Montreal allowed for the choice of the Jewish community to send their tax dollars to one of the two existing, Christian school boards (Sancton, 1985, p.45). Although Jewish day schools with Jewish teachers and Jewish administrators existed in pockets throughout the history of Jews in Montreal, some groups within the Montreal community wanted their children to assimilate more into Canadian culture, a title predominantly reserved for Christians (Fraser, 2015, p.273). This divide in opinions and the pressure of anti-Semitic policies and practices prompted panels and provided evidence for legal cases. However, in all cases, the Jewish community was united on one front—combatting untrue and anti-Semitic rhetoric. All of the Jewish community could agree that contrary to the conspiracies widely believed in the city, the Montreal Jewry did not wish to de-Christianize the Protestant Schools. However, this community was also strongly opposed to their children being Christianized by the schools that they attend (Rosenberg & Weinfeld, 2014, p.291).



In attempt to curb this dilemma, the Quebec Premier during the interwar period, Louis-Alexandre Taschereau asked of the Legislative Assembly,

“Are we to force Jewish children to go to Christian schools where they may be taught things repugnant to them? Are we to have these 13,000 children without education? Are we to say that the Jews have no status whatever in Quebec, that they are, in the words of one of the judges, outcasts? Is that the meaning of the British North America Act? ... It is necessary that the Jews should be able to determine their position. They have asked for this legislation so that they may go to the Supreme Court and Privy Council, and we are permitting it. They had to find out what are their rights” (Rosenberg & Weinfeld, 2014, p.293).

Despite his words, a legal decision in the spring of 1925 was made that excluded Jews from participating on the Protestant School Board, teaching in these confessional schools, and revoked the legal right of Jewish students to attend Protestant schools. Additionally, this decision prohibited the establishment of separate schools for anyone non-Protestant or non-Catholic (Rosenberg & Weinfeld, 2014, p.293-294). This absence of a legal provision for religious groups that are outside of the dual-confessional framework created long-lasting problems for the Montreal Jewish community (Sancton, 1985, p.45). Accused of being greedy, Jews in Montreal found themselves confronted by legal insufficiency and public anti-Semitism (Rexford, 1924, p.48). This furthered the divide in the community as this intense social pressure and political isolation was unnerving to members in the community and damaging to the schoolchildren, left without proper support in their schools.

Nevertheless, Jewish parents often wanted their children to be educated in the existing framework as they hoped that through both formal and informal education, the children would have a better chance at assimilating into the dominant culture and asserting themselves as equal and worthy “Canadians” (Fraser, 2015, p.8). Others, normally belonging to the “downtowner” faction of the Jewish community, preferred a protective stance of preserving their culture, religion, and language by advocating for a separate Jewish system. Nevertheless, both the “uptowners” and the “downtowners” sought to provide the children of the Jewish community with education that would dispel stereotypes, promote knowledge, and solidify their rights; often through the courts.

Hirsch Case

Following World War I, there was a significant wave of Jewish immigration to Quebec, and most specifically, to the City of Montreal. This tension between Jewish and Protestant Montrealers culminated in a 1927 case that was ruled on, one year later in 1928, by the Judicial Committee of the Privy Council in London (Sancton, 1985, p.45). As we look at the Jewish community in the interwar period, we see that the Canadian Census in 1921 shows 45,802 Jews living in Montreal which is augmented by a 12,000 person increase a decade later (Fraser, 2015, p.43). These people settled into two main factions of the Jewish community—the “uptowners” and the “downtowners”. Generally speaking, “the battle between “uptowners” vision of full integration of Jews within the Protestant School System as the path to belonging and citizenship still confronted the “downtowner” pleas for a separate Jewish School System” (Fraser, 2015, p.236). Both of these groups had experienced successes and failures in the legal system. Yet, in the *Hirsch* case, the question of whether to be considered Canadian Jews or Jewish Canadians was at the forefront of the discussion (Fraser, 2015, p.43).



“Uptowners” Michael Hirsch and Samuel Cohen were the appellants in the case. The respondents were The Protestant Board of School Commissioners of the City of Montreal, The Catholic Board of School Commissioners of the City of Montreal, Joseph Schubert and the Attorney General for the Province of Quebec (Privy Council, 1927, p.1). Presenting arguments to the Court on behalf of Hirsch and Cohen were Louis St-Laurent, the future Canadian Prime Minister and Mr. Peter Bercovitch. Mr. Charles Laurendeau and Mr. George Campbell represented the Protestant School Board (Fraser, 2015, p.225). Interestingly enough, in a confidential document for the Jewish Commissioners’ File dated December 1, 1924, there is a copy of a letter addressed to Mr. Bercovitch sent from the Quebec Premier, Louis-Alexandre Taschereau confirming the receipt of an earlier letter. Therein, Bercovitch writes that certain educational rights are entitled to the Jewish community both “constitutionally and as a matter of fair play” (Jewish Commissioners File, 1924). Bercovitch believed that Hirsch and Cohen represented such a small voice in the Montreal Jewry and they actively disregarded the pleas of the majority (Jewish Commissioners File, 1924). They argued that Jewish children did not need separate Jewish schools because they were not discriminated against by the existing school boards (Rosenberg & Weinfeld, 2014, p.293). Nonetheless, this argument was clearly unfounded as just a decade earlier hundreds of Jewish children walked out of their classrooms in a protest later named the Aberdeen School Strike (MacLeod & Poutanen, 2004, p.204). This strike, led by students inspired by the labour movements and surfeited with the ubiquitous anti-Semitism in the Protestant school system. Ultimately, the Aberdeen students ignited some views in the adult community to prefer the implementation of a Jewish school board rather than send their children to the Protestant or sometimes Catholic schools. This was especially true as Jewish immigration continued through the interwar period (MacLeod & Poutanen, 2004, p.206). With this debate firmly in place, the “uptowners” and “downtowners” were at odds against the fundamental issue of children’s education.

Although Jewish children were not really “Protestant for school purposes”, they were Jewish for all other purposes. This is insofar that their tax dollars were used and their freedoms were abused. Some Protestants were even keen on having the Jewish support networks as it increased the economic and political strength of the Protestant cause. As most Jews in Montreal were, and still are, primarily Anglophone, Protestants viewed the Jewish addition to their schools as an accompanying English-speaking cohort (Fraser, 2015, p.261). Hirsch and Cohen’s two-part plan sought to increase Jewish representation in Protestant schools while still stressing the importance of assimilation and “Canadianization” (Corcos, 1997, p.95).

In 1926, with slightly more than half of Jewish schoolchildren enrolled in Protestant school throughout the City of Montreal coming from working-class families there was a significant amount of people belonging to social and economic elite (Corcos, 1997, p.175). Pushing the limits of the community’s adherence were the School Boards and the City of Montreal. The tool was the pervasive and cached anti-Semitism experienced felt by the community and ingrained into the workings of the educational institutions. Moreover, “Jewish pride and Jewish self-identity were being put to the test by the Protestant Board’s recalcitrance in recognizing the validity and justice of the Jewish claims to representation” (Fraser, 2015, p.176). Hirsch and Cohen may not have succeeded in their goal of representation, but their actions highlighted the division in the Montreal Jewish community in the interwar period.



With the Judicial Committee of the Privy Council in London ruling on the case in 1928, “the Judges found that the 1903 provisional act violated Section 93 of the British North America Act by granting Jewish children an absolute right to attend all Protestant school boards. The Judges maintained that to rule otherwise would be to diminish the established rights of Montreal Protestants to control their own schools” (Sancton, 1985, p.45-46). The “uptowners” and “downtowners” were staunchly divided in this case but ultimately the entire community suffered under the rendering of the *Hirsch* decision. *Michael Hirsch and Samuel W. Cohen v The Protestant School Board of School Commissioners and the Catholic Board of School Commissioners and Joseph Schubert and the Attorney General* sparked further cases and had lasting implications on the trajectory of the Jewish School Question in Montreal and the way in which the Jewish community united; combatting anti-Semitism, solidifying their agency, and demonstrating their resilience for seven decades until 1998 with the passage of Bill 180 abolishing confessional school boards in the province of Quebec (MacLeod & Poutanen, 2004).

Implications and the future cases

The Montreal Jewish community in the interwar period was comprised of individuals whose families had been long established in the territory as well as immigrants fleeing religious persecution worldwide. These religious and political refugees were attracted to Montreal as there were plenty of jobs in the clothing and textile industries on the island. With time, the community was able to establish temples, hospitals, and other community institutions to fit their needs (Behiels, 1991, p.7). However, the most difficult institutions to enact were educational in nature. After the *Hirsch* decision in 1928, Jewish students no longer had the right to attend Protestant schools. It was at the grace of the Protestants that they were able to continue, which automatically internalized a sort of indebtedness in the Jewish community towards these Protestant decision-makers.

This feeling of inferiority compounded with the legal situation after *Hirsch* caused the Jewish School Question to continue until a “Constitutional amendment of 1997 finally put an end to the Jewish School Question” (Fraser, 2015). The goal of *Hirsch* and *Cohen* was ultimately to ensure more representation of Jewish adults in the lives of the Jewish children while they studied but this prospect seemed bleak after the rendering of the Privy Council decision in 1928. The Protestant Board of Education ensured that Jewish parents had no place in the administration or the classroom. Surprisingly, however, by 1934, 40 percent of the students in the Protestant schools in Montreal were Jewish. Nevertheless, of the Commission’s 1000 teachers, only a mere 70 were Jewish and segregation within the classrooms and schools was widespread. Jewish children, for years after *Hirsch* were forced to endure religious instruction and learn through Christian prayers. Meanwhile, Jewish parents were not permitted to keep children home from school on Jewish holidays (Behiels, 1991, p.8).

This discrimination, religious in nature, prompted the provincial government to rule that a Jewish School Board could be created in 1930, two years following the *Hirsch* decision. This was seen by some as medicine to remedy their political, economic, and societal ills and reunite the divided community. Yet, others were unimpressed by the newly permitted school board and preferred to remain attached to the Protestant system (Sancton, 1985, p.46). With the Depression ravaging Montreal society, anti-Semitism was heightened. In



order to best provide for their children, many Jews believed that the breed of anti-Semitism was less widespread in the English-speaking community than the French counterpart. Thus, “most Jewish parents were so eager to have their children learn English in order to prepare them for a very competitive job market, that they were willing to endure political and social discrimination” (Behiels, 1991, p.10). This endurance and resilience of the community, even as it was often divided on matters concerning education of Jewish children, is apparent in the literature concerning Montreal’s decades-long Jewish School Question. The *Hirsch* case was a testament to division but also a springboard of hope.

3 Conclusion

Montreal’s Jewish community confronted economic, political, and social adversity as anti-Semitism in the interwar period was widespread and particularly harmful to Montreal’s youngest Jewish citizens. It is commonly believed that Montreal’s Jewish schoolchildren were considered “Protestants for school purposes”, however, this statement blatantly disregards the legal struggles and lived realities of Jewish children and their parents. In Protestant schools, Jewish children were often subjected to accept Christianizing narratives, consistent with the anti-Semitic society that challenged them in their everyday lives. However, the members of this vibrant community, however divided during the interwar period displayed their resilience and solidified their agency as they continued to fight for equality of education for their children. Although the division between the so called “uptowners” and “downtowners” was starkly visible through the *Hirsch* case, it served as a milestone case that influenced further action and showed that regardless of the division in the community, it would persevere. With a background analysis of the Jewish School Question, *Michael Hirsch and Samuel W. Cohen v The Protestant School Board of School Commissioners and the Catholic Board of School Commissioners and Joseph Schubert and the Attorney General* can be understood as a development in the identity of the Jewish people in Montreal. Education is a key tool of assimilation, the formation of a distinctive identity, and a securing force of citizenship and belonging (Fraser, 2015, p.30). Henceforth, it should be regarded as a case that had long-lasting implications for the Montreal Jewry and fostered the environment for further legal action to be taken in the name of justice and equality of opportunity for schoolchildren of minority groups in the Province of Quebec.

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