

BETWEEN WAR AND PEACE:
POLITICS, RELIGION, AND HUMAN RIGHTS IN EARLY COLD WAR CANADA,
1945-1950

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George Egerton
University of British Columbia
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The forces of evil have been loosed in the world in a struggle between the pagan conception of a social order which ignores the individual and is based upon the doctrine of might, and a civilization based upon the Christian conception of the brotherhood of man with its regard for the sanctity of contractual relations [and] the sacredness of human personality. (Mackenzie King, Canadian Parliament, 8 September 1939)

We in the Western world have adopted the conception of good and evil from the Hebrew and Greek civilizations. This concept has been transformed and transmitted to us through our Christian traditions. It comprises a belief in the intrinsic value of every individual human being and a sense of obligation to our neighbour. Its very essence is freedom. (Louis St. Laurent, Convocation, University of Toronto, 27 October 1950)

These words, uttered by two Liberal Prime Ministers, the first leading Canada into the Second World War, the second facing an escalating Cold War and fighting in Korea, sought to define and affirm the fundamental elements of Canadian national identity in time of crisis: Canada was a liberal democracy and a member of Western Christian civilization. The two elements were integrated, as liberalism's 'belief in the intrinsic value of every individual human being' was based upon Christianity's regard for the 'sacredness of human personality.' A half century later, such expressions of the close, mutually supportive relationship of religion and politics, of Church and State, would be eschewed by both religious and political leaders in face of the transformations of Canadian political culture which brought a jurisprudence of pluralism, the de-Christianization of the state, and the privatization of religion -- a principal legacy of the late Liberal Prime Minister Pierre Trudeau as constitutional architect of a modernized Canadian polity.¹

The contemporary peripheralization of religion in the public domain of most modernized political cultures of the West has abetted a lacuna in historical understanding of the powerful political functions of religion and the eagerness of politicians to draw upon religious resources that operated in most Western states until the 1960s. It is the intention of this study to examine the relationship of religion and politics in Canada in the wake of the Second World War and the early years of the Cold War. This period would witness major statistical growth and institutional expansion for Christian churches across Canada, amounting to what was perceived at the time as a

religious revival and which lasted into the early 1960s.² The immediate postwar years would also see the attempt by Western democratic cultures to reassert fundamental liberal values, in light of the wartime legacy of Nazi atrocities, and then the challenge of Communism -- most dramatically in the form of the Universal Declaration of Human Rights adopted by the United Nations General Assembly in December 1948. This study will focus on the central role that religion played in defining Canada's ideological response, domestically and internationally, to the

dawning 'Age of Human Rights.' As will be shown, Canadian religion functioned ambiguously, with the nation's dominant Protestant and Catholic churches approaching the question of human rights protection both supportively and critically, but agreeing that human rights required religious grounding and affirmation if they were to achieve rightful political legitimacy. Faced with the alternatives of giving priority to religious or human rights themes in articulating Canadian national identity in the alarms of the Cold War, the Liberal Government of Louis St. Laurent would choose God and NATO over the 'human rights revolution' – a path confirmed resolutely with the outbreak of the Korean War in 1950.

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The Canadian experience of the Second World War both reflected and expressed the long religious history of the peoples who had come together in the Confederation of 1867 and who had developed diverse forms of the Christian faith in the new land. If the depression and 'dirty thirties' instigated *prophetic*, social gospel criticism by Canadian religious elites of the injustice and inadequacies of the prevailing liberal-capitalist economic system, the outbreak of a second world war two short decades after the carnage of the Great War once again drew churches and state together, as religion would be mobilized in its traditional *priestly* role to legitimate governmental authority and war aims in a struggle against the Axis Powers. The national churches, Catholic and Protestant, added their support to the authority and war effort of the government. Chastened, however, by their memories of the previous war experience, the churches showed little of the crusading zeal of former times; it was largely a matter of defeating an obviously evil enemy, and of ministering to troops and those at home experiencing danger, personal anguish and tragedy. The war effort, nevertheless, drew the churches and government into a closer partnership, in that both perceived and portrayed the war as a struggle to defend Christian civilization against the pagan forces of Nazism. Here government leaders took the initiative in invoking special days and weeks of national prayer for victory and peace. Government spokesmen from the Prime Minister on down, with very few exceptions, buttressed their war effort speeches with appeals to divine sanction. For Mackenzie King, should the 'Nazi doctrine of Force' prevail, there would be 'an end to our Christian civilization.' The war was therefore 'a crusade,' where those enlisting for military service were 'first and foremost defenders of the Faith.'³ The historian of the churches' role in Canada's war effort portrays the leading denominations' perception of their mission as 'freely-independent partners of the state in this task.'⁴ When the war ended, government and church leaders joined with the public in religious services of thanksgiving which hailed the victory as providentially ordained.⁵

The political rhetoric that portrayed Canada explicitly as a Christian state continued after the war as the problematic nature of the victory in Europe became apparent, and as erstwhile Christian states of eastern and central Europe fell under communist control. The genesis of the Cold War saw the Canadian church-state partnership reaffirmed and strengthened. If the war left major divisions between English and French-speaking Canadians deriving from the conscription crises, Protestants and Catholics agreed in the postwar period that atheistic communism presented a danger to the central liberal and Christian values of the Canadian state which was every bit as serious as the recently-defeated menace of Nazism, especially after the revelations concerning the extent of Soviet espionage and communist activity in Canada based mainly upon the information supplied by Igor Gouzenko, a cipher clerk who defected from the Soviet embassy in September 1945.⁶

The experience of the past war, and now the emerging Cold War, would both inspire and test the development of human rights jurisprudence in Canada. Knowledge of Nazi wartime atrocities and genocide generated wide-ranging Canadian support for the human rights ideals of the Atlantic Charter, American President Roosevelt's Four Freedoms, and the human rights themes enshrined in the United Nations Declaration of January 1942. As the war progressed and as the Grand Alliance fought its way to victory, the theme of human rights increasingly drew the attention and support of church leaders and organizations. Roman Catholic leaders reaffirmed classic doctrine on the divine origin of state authority and the necessary right to religious freedoms, while

denouncing the idolatry of totalitarian regimes.⁷ In 1942 the renowned Catholic scholar, Jacques Maritain, published *Les Droits de L'Homme et la Loi Naturelle*, undergirding an appeal for protection of human rights with

an extensive neo-Thomist foundation in natural law.⁸ It was the Federal Council of the Churches of Christ in America who gave ecumenical Protestant leadership from an early point in the war to the cause of human rights as a leading war aim for the democracies, and who, with other NGOs, also lobbied successfully for amendments to the

Dumbarton Oaks draft of the United Nations Charter to include reaffirmation of fundamental human rights.⁹

Representatives of Canada's leading Protestant denominations, cooperating after 1944 in the Canadian Council of Churches, supported the efforts of their American colleagues in furthering the international cause of human rights. Human rights and civil liberties received their most extensive theological articulation in wartime Canada when, after two years of cross-country consultations, the United Church published a report on 'Church,

Nation and World Order.'¹⁰ In this detailed and encompassing Charter of 'basic principles of a truly Christian civilization,' church leaders attempted to present a political, economic and social agenda for postwar Canadian domestic and foreign policies, confident in offering 'guidance to the nation and to the world.' The recommendations followed many of the tenets of the 1930s social gospellers, calling for greater government roles in planning and provision of welfare, and counseled a liberal internationalist foreign policy, committing Canada to participation in international institutions to maintain peace with justice and provide 'collective security.' The Report also endorsed the maintenance of 'traditional civil liberties' in an improved parliamentary system. Its extensive section on 'The Duties and Rights of Man' specified rights to an abundant life, to justice, to personal freedom, to solidarity and community, to productive and gainful work, to a voice in government, to worship, to knowledge, recreation and leisure. Such rights, however, were 'not absolute,' and found meaning only in the context of reciprocal duties and responsibilities -- as taught in the Christian maxim to treat others as one would want to be treated oneself. The report was explicit in its political theology: 'The enduring foundation of social order is the moral law of God, to whom men and nations must give account, and whose will is that all His children should live as brothers. The personal dignity of man is derived from his worth in God's sight, and the social order must recognize this

dignity.'¹¹

By the end of the war, many church leaders shared the concern of Canadian civil libertarians at the war's legacy of domestic injustices: the authoritarian powers exercised by the Canadian Cabinet under the War Measures Act, which enabled such government actions as the wartime expulsion of some 20,000 Japanese Canadians from the Pacific coast; the racial discrimination against aborigines, Jews, and people of colour; harassment of Jehovah's Witnesses and suspected communists by governmental authorities in the Province of Quebec; and then the incarceration and interrogation without right to habeas corpus or legal counsel, by executive order-in-council, of suspected pro-communist spies identified by Igor Gouzenko. The postwar government plans to deport thousands of Japanese Canadians, the operations through 1946 of the government-appointed Royal Commission on Espionage, and the subsequent spy trials, all served as a catalyst to Canadian civil libertarians, who not only protested but proceeded to develop effective organizations in defence of human rights, reviving or establishing civil liberties

associations in major cities and lobbying the government in Ottawa.¹²

Canadian civil libertarians also added their support at this time to planning within the United Nations for what would become the Universal Declaration of Human Rights. The Canadian Director of the UN Secretariat's Human Rights Division, John Humphrey, would play a central role in this undertaking as Secretary to the UN

Human Rights Commission, which was charged in 1946 with drafting an international bill of rights.¹³ Canadian civil libertarian leaders and groups mobilized both to support this venture and also to press the federal government to give domestic protection to human rights by means of a Canadian bill of rights.

The Liberal governments of Mackenzie King and (after November 1948) Louis St. Laurent would respond reservedly to the human rights question. Unwilling to concede that they had needlessly violated civil liberties in wartime, mindful of the determined constitutional jurisdiction over 'property and civil rights' wielded by Canadian provincial governments, especially the government of Quebec under Premier Maurice Duplessis, and equally attentive to the views of Quebec Liberal MPs (mainly Catholic) who constituted a mainstay of the Liberal Party, the federal government appointed a Special Joint Committee of the Senate and the House of Commons on Human Rights and Fundamental Freedoms. The Committee, intended in part to constrain civil libertarian pressures, was directed 'to consider the question of human rights and fundamental freedoms, and the manner in which those obligations accepted by all members of the United Nations may best be implemented' and, in light of the work of the UN Human Rights Commission, 'what is the legal and constitutional situation in Canada with respect to such rights' and what steps, 'if any,' should be taken to preserve 'respect for and observance of human rights and

fundamental freedoms.'¹⁴

The debate in the Commons on establishing the Committee gave advanced indication of government attitudes and the themes to be argued by advocates and opponents of a Canadian bill of rights.¹⁵ Ian Mackenzie, Minister of Veterans' Affairs, introduced debate for the Government, giving a lengthy and enthused commendation of the British political and judicial tradition, from Magna Carta to the Statute of Westminster, where the defence of freedom and rights relied primarily on the protections of the common law and the supremacy of Parliament rather

than on constitutionally encoded rights.¹⁶ While Canada might affirm the usefulness of an international declaration of human rights, ‘as a guide and direction post for the freedom-loving peoples of the world,’ Mackenzie thought it ‘less evident’ that the Canadian heritage of freedom and the common law should be tampered with by an attempt to inscribe it in statutes or codes.

Advocates of a Canadian bill of rights, John Diefenbaker for the Conservatives, and Alistair Stewart and Stanley Knowles for the social democratic Co-operative Commonwealth Federation (CCF), berated the Government’s abuse of civil liberties during the war, the violations of fundamental legal rights which had marred the espionage investigations and trials, and the racial discriminations that were operative in Canadian laws. Diefenbaker read his own suggested bill of rights into the record, while the CCF leaders were anxious to see rights extended to include social and economic entitlements. Knowles also pointed to the spontaneous growth of civil liberties associations across the country, and put on record the proposals submitted by the Civil Liberties Association of Manitoba. Gladys Strum aligned the CCF with the cause of equal political, social and economic rights for women.

The most direct opposition to the idea of a bill of rights, domestic or international, came from Social Credit members, representing the prairie voice of Alberta populism and Protestant fundamentalism: J. H. Blackmore expressed resistance to any surrender of Canadian national sovereignty to an intrusive international body; Norman Jaques saw no need for human rights guarantees, which would only allow the communists and Jehovah’s Witnesses freer reign. Jaques congratulated the government on its prosecution of the communists exposed by Gouzenko. Members from rural Quebec ridings also voiced misgivings about granting licence to enemies of the state and of the Catholic faith. For Eugene Marquis, Liberal MP for Kamouraska and a Quebec Crown Prosecutor, misconstrued claims for ‘freedom to do anything they pleased’ marked the program of ‘so-called master minds’ and served to cover ‘all sorts of errors and abuses.’ There were good reasons for prosecuting Jehovah’s Witnesses, who in the name of freedom, by libels and falsehoods had spread discord and hatred. As well, the government was to be congratulated ‘for having taken energetic measures to fight communism.’ The Independent MP for Chicoutimi, Paul Edmond Gagnon, doubted that liberty could thrive ‘upon empty talk and legal documents.’ Canada must set an example by respecting and recognizing provincial rights; the government of Quebec would never let ‘Jehovah’s Witnesses, communists and others of the same ilk ... take advantage of the freedom we extend to sabotage our institutions and contaminate the sound element of our population . . .’ Indeed, because it cherished freedom, the province of Quebec did ‘not want to be fouled by trouble-makers, anarchists or advocates of revolution’, nor to ‘become a ghetto for the communist-minded Jews from the lowest strata in European countries.’

Not all French Canadian members were so negative on the human rights program; but those who spoke in the debate all approached the subject from the perspective of manifest Catholicism. Roch Pinard, Liberal MP from Chambly-Rouville, while opposed to any attempt to legislate a Canadian bill of rights before Canada had patriated her own constitution, supported the current efforts to draft an international declaration. However, Pinard insisted passionately on the need to acknowledge ‘that all rights whatever are not conferred by man but must originate and derive from God.’ He went on to assert that no international human rights declaration ‘should be approved by the United Nations and by Canada in particular, unless faith in God and also belief in religion are firmly and clearly expressed therein.’ Rejecting all theories calling for the separation of church and state in national or international life as having led to ‘disastrous results’ in the past, Pinard claimed that the leading historical declarations of rights and constitutional protections had all contained a divine referent in their preambles. Even Robespierre had insisted that the French National Assembly, in adopting the ‘déclaration des droits de l’homme et du citoyen’ of 1789, include in its preamble a civil religion reference to the ‘Supreme Being.’ The notable modern exception was the constitution of communist Russia. The adoption now of any human rights declaration without a divine referent would be, for Pinard, ‘a sad mistake and miserable blunder.’

The Parliamentary Committee began its work in June with a review of the draft articles of the Human Rights Commission with R. G. Riddell, head of the Department of External Affairs UN Division, received several written submissions, and heard expert testimony from John Humphrey, who explained the UN drafting process.¹⁷ F. P. Varcoe, Deputy Minister of Justice, briefed the Committee on the constitutional difficulties human rights legislation entailed for Canada. Affirming the traditional jurisprudence of the Justice Department, Varcoe counseled that Canada could best fulfil the UN obligations to further human rights by continuing her existing parliamentary form of government and upholding the rule of law, rather than attempting constitutional innovation through special protection of human rights which, to bind future legislators, would require the retrogressive procedure of petitioning the British Parliament to pass a constitutional amendment to the British North America Act.

It quickly became apparent that the Committee’s co-chair, Justice Minister James Ilsley, while content to have Canada accede to an international *declaration* of human rights, which would have moral, but not legal, effect for UN members, had no desire to provoke a fight with the provinces over the issue of ‘civil rights’ which the British North America Act placed under provincial jurisdiction. Liberal members on the Committee therefore

emphasized the virtues of the British system of parliamentary supremacy under the law, where human rights and liberties were best protected, as Senator Arthur Roebuck put it, 'by the whole body of common law.' Roebuck nevertheless suggested the possibility of expressing 'in some dramatic way, what we believe to be fundamental and elementary in the matter of human rights.' Roebuck, who served as a counsel for the defence in the espionage trials which followed the Gouzenko revelations, had established close links with the leading Canadian civil liberties groups, who now looked to him as the most sympathetic voice within the Liberal caucus. It was the Conservative, John Diefenbaker, however, who again showed most enthusiasm for testing the possibility of a statutory Canadian bill of rights -- a cause he would now champion as his own. Confronting a wall of official resistance to this project, Diefenbaker would charge the government with 'procrastinating,' 'postponing,' and 'shadow boxing.' The Committee completed its initial deliberations in July, recommending only that a similar committee be appointed for the next parliamentary session to continue examination of the question of human rights.

The Canadian government was not represented on the UN Human Rights Commission or its drafting group which, meeting through the spring and summer of 1947 prepared the early drafts of an international bill of rights, although John Humphrey provided a friendly source at the heart of the drafting process. From an early point in this process, the discourse amongst the leading drafters indicated dramatically that the question of human rights engaged deep philosophical, ideological, and religious disagreements. The first meetings of the Commission on Human Rights in January 1947 gave an initial rehearsal of the contending approaches to the nature, scope and foundations

¹⁸ of human rights. Similarly, the initial efforts of Charles Malik, Lebanese Rapporteur for the Human Rights Commission and a devout Greek Orthodox Christian, to give human rights a religious foundation in Thomist natural law theory were rebuffed by other members of the drafting committee. This and subsequent unsuccessful efforts to include a religious referent in the draft Declaration evoked criticism from international and Quebec

¹⁹ Catholic commentators.

The UN Secretary General, in circulating the Geneva drafts of the UN Human Rights Commission, had asked for responses from governments by April 1948. The King government was not ready to respond and hoped

²⁰ the UN decision on the Declaration could be postponed until the 1949 General Assembly. But, with some prodding by Diefenbaker, King announced the reconstitution of the Special Joint Committee on Human Rights and Fundamental Freedoms in the spring of 1948. Debate in the House of Commons on the motion to reestablish the committee, however, revealed that the domestic and international politics of the Cold War would complicate policy formation on the UN draft declaration on human rights. The Royal Commission on espionage and subsequent spy trials had given Canadians insight into the government's operations against those caught in the web of communist espionage revealed by Gouzenko. If civil libertarians had been outraged by the devious methods used to exact information from suspects and gain convictions, the government knew they enjoyed powerful political support as a wave of anticommunism serged through public opinion. Internationally, the communist take-over of Czechoslovakia and blockade of Berlin sparked a crisis mentality and deep fears of a new war, as planning for Canadian participation

²¹ in an Atlantic alliance was accelerated, while domestic pressures mounted to outlaw communist organizations. Parliamentary debate reflected this climate of anxiety. Several members opposed any extension of civil liberties or endorsement of UN human rights, as this would merely provide a smoke screen to allow the treason and subversion of communists and fellow travelers to continue. Those who were petitioning the government for a bill of rights were therefore either 'dupes' or 'traitors' according to the Social Credit Albertan, Rev. Ernest Hansell, who complimented

²² the government on its recent suppression of the 'spy ring.' The Quebec Liberal, J. F. Pouliot, read into the record the names of those suspect individuals who had signed the petition of the Toronto-based Committee for a Bill of Rights and went on to support Quebec's anticommunist Padlock Law and the measures taken against

²³ Jehovah's Witnesses.

Pouliot and others accusing civil libertarians with serving the interests of communism knew they were touching a sensitive point; liberal and social democratic members were having difficulties in preventing communists and their supporters from dominating the civil libertarian movement and from taking over several of the leading

²⁴ groups. David Croll, Toronto Liberal and a leader of the Jewish community, nevertheless defended vigorously the loyalty of the petitioners and advocated renewing the defence of the Canadian political 'middle,' in face of the prevailing apprehensions. The extremists of the Right had led the world into the recent war and now the extremists of the Left threatened to spark another world conflict. Croll argued that the politics of the Canadian Centre needed a 'formal instrument of freedom' to remedy its deficiencies and re-assert the 'fundamental principles of individual freedom.' He urged the government to surmount the technical impediments in putting a 'charter of liberties' before

the Canadian people; without such a charter, 'supported by all the ethical and social sanctions our society as a whole can command,' Canadian would enter ill-armed into 'the great ideological conflict that is only beginning to make itself felt at the present time.'²⁵

When the Special Joint Committee on Human Rights and Fundamental Freedoms began its meetings in April, the concern to give human rights a religious foundation again constituted a principal motif.²⁶ The Quebec Catholic Liberal, Eugène Marquis, returning to the arguments he had used in the previous year's debates, proposed an amendment to the UN draft Declaration which would add a reference to the name of God in the first article, making clear that for a country like Canada which believed in God, 'we derive our rights from God, and not from ourselves.' Senator L. M. Gouin, Liberal co-chair of the committee and a devout Catholic Thomist, strongly supported this addition, stating that he considered it 'the most fundamental question which will come before this committee.' Other members of the committee, notably Benoît Michaud (Liberal), James Turgeon (Liberal), T. A. Crerar (Liberal), H. W. Herridge (CCF), and Ernest Hansell (Social Credit), supported Marquis' call for a religious referent which would have changed the first article of the draft Declaration to read: 'All men are born free and equal in dignity being vested by the Creator with inalienable rights.'

Justice Minister Ilsley, co-chair of the committee again, cautioned that none of the UN drafts or documents on human rights implied a positive religious belief on the part of those who would be asked to subscribe, perhaps because it was a human right not only to worship as one saw fit, but also not to worship at all if one so chose. Ilsley, following the procedures agreed to previously by the steering committee, advised that the amendments moved by Mr. Marquis not be voted upon formally, but rather discussed as suggestions which could be forwarded to Parliament and the UN as representing the individual views of members. This was the path followed in the Final Report of the committee which was placed before the Senate and Commons on June 25, 1948.²⁷

The Report of the Special Joint Committee reflected the extreme caution of the Mackenzie King government and Justice Minister Ilsley, together with most members of the Committee, on the matter of human rights legislation. While the Committee was willing to recommend a more concise version of the draft Declaration on human rights, which would involve purely a moral commitment, and which would not intrude into the controversial domain of economic and social rights, it gave no support or consideration to the second UN draft, the Covenant of Human Rights, which would have entailed domestic legal commitment in its implementation on the part of subscribers. The Report also recommended against Mr. Diefenbaker's proposed legislation of a bill of rights by federal statute, as this could encroach on provincial jurisdictions, and could not, in any event, bind future parliaments. Neither would the Committee recommend, 'without a great deal of further study,' enactment of a human rights code by means of a constitutional amendment to the British North America Act, as called for in written submissions to the committee, notably by the Toronto-based Committee for a Bill of Rights.

The draft Declaration had also by now generated major international religious interest and support. During the early drafting sessions of the UN Human Rights Commission, it had been principally Malik and Catholics who had pressed the case for a divine referent in the Declaration. In Canada, the question of human rights received detailed attention in the influential Jesuit journal, *Relations*, while the Canadian Episcopate joined with American

Bishops in affirming Catholic teaching on human rights.²⁸ Always, human rights were presented as part of a political and moral order which found their origins and authority in God. Jacques Maritain continued to articulate Catholic scholarship on human rights, while also playing a prominent role in a 1947-1948 UNESCO symposium which engaged leading political theorists from member countries on the nature and foundations of human rights.²⁹

In the summer of 1948 Anglican Bishops from around the world met in London for the first postwar Lambeth Conference. Here, in denouncing the cruelties and false doctrines of the recently-defeated totalitarian states and the new menace of Marxian Communism, the Bishops put forward as their first subject 'The Christian Doctrine

of Man' which alone could serve as the foundation for human rights.³⁰ The Lambeth Resolutions then endorsed the efforts of the United Nations to protect human rights, most especially the right to freedom of religious belief, practice, and education. Later in the summer, the inaugural meeting of the World Council of Churches at Amsterdam put its support firmly behind the international protection of human rights, not only by means of the draft UN Declaration, which set forth a common standard, but also through an enforceable International Bill of Human Rights, which would guarantee 'all the essential freedoms of man, whether personal, political or social.' As with the Lambeth Bishops, the World Council of Churches placed its support for human rights in a manifest theological grounding: 'The Church has always demanded freedom to obey God rather than man. We affirm that all men are equal in the sight of God and that the rights of men derive directly from their status as the children of

God.³¹

Explicit theological approaches to human rights would inform the positions of several of the delegates who came to Paris in the fall of 1948 for the meetings of the UN General Assembly and its Third Committee, which was charged with reviewing the draft Declaration as received from the Human Rights Commission and the Economic and Social Council before the General Assembly itself would hold a final discussion and vote. When the Third Committee began its discussion of the first draft article, the Brazilian delegate moved an amendment which would have added a description of man as 'Created in the image and likeness of God,' thereby giving a transcendent

referent to precede and justify the human rights which followed.³² This quickly proved to be unacceptable. While some support was voiced by delegates from countries with Catholic populations (Bolivia and Columbia), critics portrayed such a religious reference as controversial, and inappropriate in a universal juridical text addressing

peoples of all faiths, and none.³³ The Soviet bloc resisted any reversion to the dark ages of theology and metaphysics, claiming human rights were generated and necessitated by social and economic conditions, and

threatening to vote against the whole Declaration if a religious referent were included.³⁴ A later amendment by the delegate from the Netherlands, which would have affirmed that the rights of the Declaration were founded on Divine origin and the eternal destiny of man, fared no better; the Belgian and Dutch amendments were discretely

withdrawn.³⁵ The statement by the French delegate, René Cassin, that 'law could have no other source than the will of the people,' perhaps best captured the prevailing liberal ethos of the Third Committee, as it met in the Palais de Chaillot, where *Des Droits de l'Homme et du Citoyen* had been drafted in 1789.³⁶

Canadians delegates faced an unenviable role in the work of the Third Committee; they had been advised to support the inclusion of a divine reference in the draft Declaration, and were prepared to give support to the

Brazilian amendment.³⁷ But there was no support for this from major allies, notably Britain and the United States, who were both anxious to avoid revisiting awkward questions of philosophy or religion and have the draft passed

quickly so that it could be used in the ideological struggle with Soviet communism.³⁸ Meanwhile, it was apparent that powerful domestic factors were complicating Canadian policy formation on human rights. With provincial elections in Quebec and Ontario, the retirement of Mackenzie King, and an upcoming federal election under the new Liberal leader, Louis St. Laurent, the Liberal party had no desire to antagonize its powerful Quebec base. Moreover, the Canadian Bar Association at its annual meeting held in Montreal, August 31 - September 3, had voiced serious reservations on the lack of legal precision in the language of the draft Declaration, its insensitivity to provincial rights in Canadian constitutional law and, in tandem with colleagues from the American Bar Association,

recommended its referral for revision by legal experts.³⁹

John Hackett, President of the CBA, Conservative MP from Stanstead, Quebec, and a devout Catholic, had served on the 1947 and 1948 Special Joint Committees, where he had argued that while an international declaratory statement of human rights might yield some general benefits, equally it would interfere with Provincial jurisdictions, and would have constrained the Federal government regarding such matters as the wartime displacement of Japanese Canadians and the conduct of the recent spy trials. He also had criticized the draft social

and economic rights as statements of 'political economy, not human rights.'⁴⁰ In his Presidential address to the CBA, Hackett left the legal criticisms of the draft Declaration to the Report of the CBA's Committee on Legal Problems on International Organization for the Maintenance of Peace and instead focused on the religious dimension of the current struggle for human rights: such rights, as the authors of the American Declaration of Independence asserted, were an endowment of the Creator. According to Hackett, human rights and fundamental freedom were 'distinctive of Christian civilization' and had 'never existed elsewhere.' And, in the present battles for the human soul against the menace of communism, the 'great institutions of the Christian Tradition, the church, the university, the law and the Christian family, – institutions which do not exist outside of Christianity and which are the

bulwarks of human rights and fundamental freedoms, – must all defend Christian Civilization.'⁴¹

The views of Hackett and the CBA had major influence with St. Laurent and his Cabinet colleagues. Hackett was a friend since childhood and enjoyed direct access to St. Laurent, and also to Lester Pearson, who would succeed St. Laurent as External Affairs Secretary when the latter became prime Minister in November 1948. St. Laurent and Pearson let Hackett know they shared many of the CBA's criticisms of the draft Declaration, and

kept him confidentially informed on the development of Canadian policy.⁴² The records of policy formation show that leading Canadian officials and members of the Cabinet viewed the draft Declaration in increasingly negative terms. Based on advice from the Department of External Affairs, the Cabinet on September 21 agreed to a policy which instructed its delegation in Paris to give general support to the draft Declaration, but to press for delay and

referral to international legal experts.⁴³ Soon, however, concerns regarding the sensitive issue of provincial jurisdiction, compounded by the alarms raised by Hackett and his CBA colleagues, led Pearson and St. Laurent to send on much more cautionary advice: the Canadian delegation should distance itself from any support for the

Declaration in its present form, and abstain when it came to final UN voting on the Declaration's adoption.⁴⁴ This policy was affirmed by St. Laurent's new Cabinet in its meeting of 17 November, when Pearson made it clear from Paris that there was little hope for referral of the draft Declaration or delay of the UN voting.⁴⁵

After it became certain that adoption of the Declaration without substantial revision was inevitable and would be supported overwhelmingly by UN members, including Canada's closest allies, the Cabinet held a lengthy Cabinet session on November 24, which reviewed the continuing misgivings of St. Laurent and his colleagues: the draft Declaration involved encroachments on the jealously-guarded jurisdiction of the provinces; its language remained imprecise and many articles could never be implemented; it would confer the right to public employment on Canadian communists and permit the unrestricted activities of sects like the Jehovah's Witnesses; it invited hypocrisy on the part of many UN members who had no intention of compliance. Many Cabinet members, sensitive to the traditions of British jurisprudence, thought that the approach of the draft Declaration was 'contrary to the

whole spirit of British institutions.'⁴⁶ Given these manifest reservations, Canadian delegates in the Third Committee continued to play a negligible role, merely recording the government's concerns and reservations on specific articles of draft Declaration, and then abstaining in the Committee's final vote on the amended draft.

When the draft Declaration went to the General Assembly in December, the government's attitudes remained negative, with the favoured policy being to abstain again on the final vote. However, after Pearson warned from Paris that such an abstention would be politically embarrassing, the Cabinet agreed reluctantly to a positive Canadian vote when the Declaration was passed on December 10, thereby avoiding being grouped with a small, select band of abstainers -- the Communist bloc, Saudi Arabia and South Africa.⁴⁷

Civil libertarians were shocked and disappointed with the performance of Pearson in Paris, which seemed to typify the government's negative attitudes on the human rights program since the Parliamentary Committees of

1947 and 1948.⁴⁸ But the Government's very guarded support for the Universal Declaration of Human Rights did not impede an electoral triumph in June 1949 which brought the Liberals back to power with a large majority under Louis St. Laurent. The Liberals' anticommunism, now given added fuel by the arrest and trial by the Hungarian Communists of Catholic Cardinal Mindszenty, clearly held more popular appeal than human rights, with the crusade for an Atlantic Alliance holding centre-place in the Liberal Party Platform whereas the theme of human rights went unmentioned.

In March 1950, the St. Laurent government responded to the mounting, if controversial, Canadian interest in human rights by appointing another parliamentary committee, this time a Senate Special Committee on Human Rights and Fundamental Freedoms, composed exclusively of Liberals. With its new mandate overwhelmingly secure, the Liberals gave Senator Roebuck the latitude to test the possibilities of innovation in human rights. As the Senate committee began its public hearings in April, Roebuck arranged that the first two witnesses were leading

Canadian advocates of civil liberties and human rights – J. King Gordon, and F. R. (Frank) Scott.⁴⁹ Both Gordon and Scott were sons of prominent churchmen -- Gordon's father was Charles Gordon (famous as a novelist under the pen-name Ralph Connor), former Moderator of the Presbyterian Church and an architect in 1925 of the union of Presbyterians and Methodists in the United Church; Scott was the son of Canon Frederick George Scott, famed

padre to Canadian overseas forces in the Great War and Anglican Archdeacon in Quebec City.⁵⁰ Gordon and Scott's religious and political development had taken similar paths in the 1920's and crises of the 1930's – through the 'social gospel' and the socialist League For Social Reconstruction, to leadership in guiding Canada's first federal social democratic party, the Co-operative Commonwealth Federation, founded in 1932. Gordon, whose socialism and laudatory return after visiting the USSR had contributed in 1933 to loss of his academic position at United Theological College in Montreal, had joined the United Nations Division of Human Rights 1947, working under John Humphrey. He presented a powerful and eloquent brief for the historic import of the Universal Declaration

which, along with the UN Charter, represented ‘the will of peoples’ of the world.⁵¹

Frank Scott, Professor of Law at McGill University, came before the committee as Canada’s foremost legal authority in constitutional and human rights law, and now very much a public figure, having taken on the Duplessis government in the Padlock and Roncarelli cases before the Supreme Court, Canada’s highest court.⁵² The author of several influential studies calling for protection of Canadians from the violations of their rights and liberties which had occurred increasingly in the crises of the depression, the war, and now the anticommunist pressures of the Cold War, Scott had recently published an article in the *Canadian Bar Review* which advocated a major new effort to extend human rights and freedoms in Canada.⁵³ Scott reviewed his arguments before the committee, while also repeating the case for his favoured course: a constitutionally-entrenched bill of rights, either by means of British-legislated amendment to the British North America Act or, much more preferably, a Canadian addition to a patriated constitution.

The briefs of Gordon and Scott were received respectfully by most members of the committee, even if several Senators expressed reservations over the nature and scale of the changes being advocated. Indeed, both Gordon and Scott were propounding a new, secular liberal jurisprudence centred on human rights protection by governments and courts. As Scott put it, no subject was more worthy of legislative attention in democracies: ‘for it is by enlarging human rights and fundamental freedoms that we strengthen the moral basis of our social order, and give to all our people a stake in democracy which is the surest defence against anti-democratic creeds.’⁵⁴ Later he would argue that a new activist philosophy of law was emerging: ‘We think of law now in terms of social engineering’, where law was ‘a force itself,’ a ‘constructive and creative influence in society . . .’⁵⁵

Neither Scott nor Gordon, despite their Christian patrimony, had intimated any need for a religious referent to ground or legitimate human rights. However, the debates attending passage of the Universal Declaration had, by now, generated extensive politico-theological reflection on the part of both church leaders and politicians concerning the nature and foundation of human rights and the proper role of governments in relation to such rights. The Canadian churches, along with other churches represented at the first meeting of the World Council of Churches in Amsterdam in the summer of 1948, had strongly supported the draft United Nations Declaration of Human Rights. The Canadian Council of Churches submitted a brief to the Senate Committee which expressed the attitudes and teachings of its members on the question of human rights. The Council’s brief, like briefs submitted individually by the United and Anglican Churches, while supporting the provisions of the Universal Declaration, and favouring constitutional entrenchment of a Canadian bill of rights, was anxious to place such support within a doctrinal framework: ‘We believe that all men are God’s creatures, and, as such, they are of infinite worth in His sight. They have God-given rights which society must respect and for whose realization it must make provision . . . Every violation of these rights and freedoms is a denial of basic Christian principles.’⁵⁶

The Senate Committee’s Report, then, charted a careful compromise, endorsing the ultimate project of an entrenched bill of rights in a patriated Canadian constitution as favoured by Scott and the leading civil libertarians, while simultaneously affirming the Christian doctrines on the origins and nature of human rights which had been articulated by religious leaders and which held such deep appeal for the Quebec members of the Committee.⁵⁷ Until constitutional patriation and an amending formula could be negotiated with the provinces, the Report advised that Parliament adopt, as an interim measure, a Declaration of Human Rights – to be ‘strictly limited to its own legislative jurisdiction.’

The Senate Report made reference to Canada’s evolution into nationhood, as the remaining vestiges of British colonial status were being dissolved: Canada now had full control of her foreign policy; appeals to the Judicial Committee of the British Privy Council had been ended in 1949; and the federal government had authority to amend the British North America Act in areas under its constitutional jurisdiction. The Roebuck Report, in one of its more visionary passages, called on Canadian legislators to inaugurate a new era in national self-definition: ‘This is then the very time for Canada to decide the basis upon which this new Nation is founded . . . this is the time to nail the emblems of law, liberty and human rights to our masthead. This is the very moment in which to decide our nationhood, to guarantee human rights and fundamental freedoms to all our citizens, and to proclaim our principles to the world.’

As Senator Roebuck well knew, while this vision appealed deeply to the Canadian social democratic and

liberal Left, and to the social conscience of mainline Protestantism, it held much less attraction for conservative Protestants and Catholics, especially in Quebec. It is notable that the Senate Committee received no brief from the Catholic hierarchy, and Senator Roebuck feared up until the last minute that Quebec Catholic members might

⁵⁸ sabotage the Committee's Report. The 'human rights revolution' hailed by such civil libertarian leaders as Frank Scott, John Humphrey, King Gordon, and Arthur Roebuck, directly challenged both Anglo-Canadian national identity grounded in British jurisprudence, common law, and the supremacy of Parliament, and French Canadian political culture, protected by Quebec Catholicism. Early in the Committee's deliberations, Roebuck had recorded members' agreement with the suggestion that any preamble to a Canadian bill of rights should make explicit

⁵⁹ recognition of God as the giver of rights.⁶⁰ Senators resoundingly endorsed the views of the churchmen in presenting a transcendent status for human rights: 'Such rights are not created by men, be they ever so numerous, for the benefit of other men, nor are they the gift of governments. They are above the power of men to create . . .'. The Report concluded by portraying Canada as 'a Christian country' and recommending 'that all men give thought to the Fatherhood of God and the Brotherhood of Man,' so as to further the rule of law and the rights of individuals.

* * *

The deliberations and Report of the Roebuck Committee, then, illustrated clearly the continued integration of Canadian Christianity and liberalism, each reinforcing core values of the other. However, despite the enthusiasm for human rights evoked by the committee from influential circles of Canadian Protestantism, civil libertarian associations, liberal and social democratic intellectuals, and labour organizations, the timing of the Senators' Report was inopportune. Within a few days of the conclusion of the committee's work, on June 25, 1950, the Korean War broke out -- a war which would see Canadian forces once again in combat, now under the banner of United Nations collective security. These events would help generate extreme forms of anticommunism in United States, with civil liberties often being trampled in the investigations to discover treason, disloyalty, and 'un-American' activities mounted by Senator Joseph McCarthy and the political Right. While forms of 'McCarthyism' spilled over into Canada where the fear of communism also ran deep, there would be much less zeal in Canada for mobilizing public

⁶¹ institutions against alleged subversives. Nevertheless, whatever attractions the cause of human rights held within the Liberal government quickly abated, and the Roebuck Committee's Report was ignored and buried. Moreover, with federal-provincial relations subject to the vigilant eye of Quebec Premier Duplessis, the St. Laurent government had no desire to provoke provincial opposition by initiatives for either an entrenched or statutory bill of rights.

When civil libertarian groups organized a large delegation in May 1951 to press on Louis St. Laurent the urgency of proceeding with the recommendations of Senator Roebuck's Committee, they found the Prime Minister polite but 'very formal and non-committal,' while the Cabinet would consider their petitions, St. Laurent advised that the provinces would first have to be convinced that constitutional innovation was necessary -- a course which

⁶² held no foreseeable chance of success.

It was not just the alarms of the Cold War, however, which impeded Canada's entry into the age of human rights. As this study has shown, Canada's political and legal elites shared a deep and enduring commitment to the traditions of British jurisprudence, the supremacy of Parliament, and the operation of the common law in defence of liberties. Neither the Prime Minister, his Cabinet, nor officials from the Justice Department or External Affairs, favoured a bill of rights to be enforced by the courts. Equally, Quebec's political and religious elites resisted intrusions into provincial jurisdictions and Catholic identity under a program to protect human rights. Moreover, if the national Canadian churches had aligned themselves with their international leadership in the World Council of Churches, Lambeth, and the Vatican in expressing support for the cause of human rights, conservative Canadian Christians harboured misgivings that the 'human rights revolution' presented a challenge not only to the existing religious foundations of Canadian political culture and jurisprudence, but also the longer-term privileging of Canadian religious values, practices, and institutions. Civil libertarians like Scott, Gordon and Humphrey were

⁶³ viewed from this perspective as prophets of a secular, pluralist Canada. For conservative Protestants and Catholics alike, a secular pluralism was as disconcerting as communism. The Social Credit MP, Rev. Ernest Hansell, had perhaps voiced these misgivings most clearly when, in the proceedings of the 1948 Joint Parliamentary Committee, he had reiterated fears expressed previously by Catholic conservatives that the Universal Declaration, in offering equal rights to atheists, was going beyond freedom to license. It was his intuition, he cautioned, 'that

contrary forces to our way of life and civilization' were behind the draft Declaration, even if the proof to his premonitions might only 'come a hundred or two hundred years from now.' Hansell's Catholic colleague on the committee, John Hackett, attentive to these views, noted that Canada's 'Christian democratic civilization' would find itself being confronted with the contradictory elements of many civilizations.⁶⁴

Such troubling prospects of pluralism were not evident to Louis St. Laurent, who had recently expressed gratitude 'that the relations between Church and State are so helpful in our country,' while hoping that 'future generations should maintain them.'⁶⁵ The new decade of the 1950s would see Canadian Liberal leaders continue to speak of Canada as a Christian country, a responsible and pro-active middle power defending Western civilization against the ideological and military menace of communism. St. Laurent remained happy to sustain the government's practice of legitimating government authority and building support for policy with explicitly religious rhetoric which fused liberal and Christian themes. Speaking to the Convocation of the University of Toronto in the Fall of 1950, the Prime Minister reminded his audience of the spiritual values that served as the 'fount' of liberal societies: 'We in the Western world have adopted the conception of good and evil from the Hebrew and Greek civilizations. This concept has been transformed and transmitted to us through our Christian traditions. It comprises a belief in the intrinsic value of every individual human being and a sense of obligation to our neighbour. Its very essence is freedom.'⁶⁶

With Canada's flourishing churches, Protestant and Catholic, eager to support governmental authority in its containment of communism, domestically and internationally,⁶⁷ St. Laurent would conclude that Canadian civil liberties were sufficiently protected and that neither the government nor its citizens had need for a Canadian Bill of Rights.⁶⁸

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