Since the Second World War, with the 1960s serving as a watershed, Canada has experienced the rapid and radical cultural transformations common to all modernized states. Indeed, it is one of the defining characteristics of modernity, and now postmodernity, that change is received normatively as predominant over continuity. Historians are in the early stages of joining sociologists and other social scientists in a quest to understand the nature and scale of these profound transitions. While such leading dynamics as technology, demography, class, and gender have attracted major study, the more traditional categories of politics, ideology, jurisprudence, and religion also demand revisiting and reassessment in light of our recent cultural caesuras.

A principal political and legal feature of these transformations has been the rise of a jurisprudence of human rights, both within states (principally democracies), and internationally since the adoption by United Nations of the Universal Declaration of Human Rights (UDHR) in 1948. The politics of human rights has presented a central theme in contemporary Canadian history, especially with the entrenchment of the Charter of Rights and Freedoms in the patriated Canadian Constitution of 1982. Subsequently, the Charter would come to have a commanding influence on Canadian jurisprudence and political culture, as the protection and extension of human rights not only radically enhanced the role of the courts, but the Charter itself became the principal normative source in defining the purposes and legitimations of Canadian government. With the Charter shaping a new multicultural, pluralist, and increasingly secular national identity, Canada now fully embraced the ‘rights revolution.’

It is the intention of this article to examine Canadian civil libertarian thought and mobilization through the years 1945–50 in the context of the human rights challenges of the Second World War and the early Cold War, and the response of Canadian Liberalism under Prime Ministers Mackenzie King and Louis St Laurent, as civil libertarians supported the
drafting of the Universal Declaration of Human Rights and pressed for a Canadian Bill of Rights. The central focus of the study, however, is on the religious dimension of human rights questions in the post-war period – specifically on the role of Christianity. Canadian culture through this period reflected the traditional Christian pluralism of Protestantism and Catholicism (in Quebec) and a close church–state relationship, reinforced during wartime. In attempting to give due regard to religious factors in Canadian politics and jurisprudence, the article hopes to remedy a substantial lacuna in Canadian political and religious historiography. While historians have contributed insightful analyses of the Social Gospel’s political impact and its role in the formation of the social democratic Co-operative Commonwealth Federation (CCF) in 1932, much less attention has been focused on the relationship between Canadian Liberalism and the mainline religion of the national Protestant and Catholic churches.

The post-war years 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. Religious teachings touched directly on human rights campaigns, both supportively and critically, and from an early point in the project for the UDHR, Christian churches played a vital national and international role in shaping opinion, articulating political values, and influencing policy. As will be seen, the Canadian discourse on human rights is rich in evidence on the functions of religion in public life, and the nature of Canada’s evolving pluralism; it is hoped that new understanding of religious factors will help explicate Canada’s ambiguous entry into the age of human rights.

After all the expedients of appeasement had failed and Nazi Germany unleashed its attack on Poland in September 1939, Canada found itself drawn reluctantly, but with conviction, into a second world war. As with Canada’s partners in wartime, especially Britain and later the United States, government leaders sought legitimation and guidance in time of national emergency through manifest appeals to the political and religious foundations of Western societies: democratic ideology and Christian religion. The war was portrayed as a struggle to defend liberal values and Christian civilization against Nazi dictatorship and paganism. Prime Minister King, a devoted if eccentric Presbyterian, combined these themes in his call to war before Parliament on 8 September 1939: ‘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." King’s appeal integrated liberal ideology and religion on the core concept of human rights, because liberalism’s ‘belief in the intrinsic value of every individual human being’ was based upon Christianity’s regard for the ‘sacredness of human personality.’ Soon the war effort drew the churches and government into a close partnership, where both parties discerned and portrayed the war as a struggle to defend Christian civilization against the pagan forces of Nazism; government leaders took the initiative in invoking special days and weeks of national prayer for victory and peace, while the churches perceived themselves as ‘freely-independent partners of the state’ in a moral and mortal contest.²

The war years also presented severe challenges to Canadian civil libertarians, as the government invoked the War Measures Act and exercised an array of authoritarian executive powers that often swept aside classic liberties and rights. Canada entered the war with a jurisprudence grounded on the inherited British doctrine of parliamentary supremacy, which located the prime responsibility for protecting civil liberties in Parliament, guarding against executive tyranny, while the courts would uphold the common law. This stood in contrast to the American model of judicial review, whereby courts could subject legislation to the test of the Bill of Rights entrenched in the first ten amendments to the United States Constitution.

Those who experienced discrimination and violations of their liberties found little redress by way of courts or Parliament. Rather, aggrieved individuals and groups looked to their own resources for defence of their interests and liberties, usually with little success. Ethnic associations pressed for full citizenship status; Jews joined with liberal-minded Christians in the Canadian National Committee on Refugees and Victims of Political Persecution to change the anti-Semitic constraints that excluded Europe’s refugees; the Trades and Labour Congress and the Canadian Labour Defence League campaigned against laws proscribing Communist associations – Criminal Code Section 98 and then Quebec’s Padlock Act; while the Canadian League for Peace and Democracy championed the civil liberties of Communist workers and organizers.³

While Catholic statesmen could draw on a corpus of traditional natural law doctrine and papal statements and encyclicals, Pius XII’s record in defending Europe’s Jews remains a matter of great controversy.


5 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 in 1944 a report on

4 While Catholic statesmen could draw on a corpus of traditional natural law doctrine and papal statements and encyclicals, Pius XII’s record in defending Europe’s Jews remains a matter of great controversy.

5 Jacques Maritain, Les droits de l’homme et la loi naturelle (New York: Éditions de la Maison Française, 1942); The Rights of Man and Natural Law, trans. Doris C. Anson (New York: Charles Scribner’s Sons, 1943). Maritain’s book would be widely disseminated, serving as the most influential wartime Catholic commentary on human rights. A leading French philosopher, Maritain lectured and offered courses regularly after 1933 at the Pontifical Institute of Medieval Studies, Toronto, and was widely read in French Canada. Maritain kept up his close relationship with the Pontifical Institute until his return to France in 1960.
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church, nation, and world order. 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 post-war 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 and the CCF, calling for greater government roles in planning and provision of welfare, and counselled a liberal internationalist foreign policy, where Canada would participate fully 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 ‘Duties and Rights of Man’ specified rights to an abundant life, justice, personal freedom, solidarity and community, productive and gainful work, a voice in government, worship, and 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.

By the war’s end, many Canadian civil libertarians were also troubled by domestic injustices: the War Measures Act had enabled such government actions as the wartime expulsion from the Pacific coast and relocation inland of some 20,000 Japanese Canadians; the government had proscribed the activities of Jehovah’s Witnesses and incarcerated Communist leaders before the USSR became an ally; and racial discrimination remained ubiquitous against Aboriginal peoples, Jews, and non-Caucasians. Two causes in particular mobilized Canadian civil libertarians in late 1945 and early 1946: the post-war government plans to deport thousands of Japanese Canadians, and then, by secret executive Order-in-Council, the incarceration and interrogation without right to habeas corpus or legal counsel, of suspected Communist spies identified by Igor Gouzenko, a cipher clerk who defected from the Soviet embassy in September 1945. Soon the civil libertarian groups that had started up in the late thirties but had recessed in wartime were revived and new associations were formed. The Co-operative Committee for Japanese Canadians, quickly spreading branches and supporters across the country, would be unsuccessful in its legal appeals, but would succeed morally and politically by early 1947 in persuading the Liberal government to abandon its deportation plans. Meanwhile, the operations

through 1946 of the government-appointed Royal Commission on Espionage, and the subsequent spy trials, provoked the establishment of new Civil Liberties Associations in Toronto, Montreal, Vancouver, and Ottawa. The Gouzenko affair would result in some dramatic convictions – notably of Fred Rose, the Communist member of Parliament – but a principal result of the spy trials was to convince many civil libertarians that Canada needed the protections of a bill of rights. Parliamentary leaders of the CCF would now be joined by the Conservative firebrand from Saskatchewan, John Diefenbaker, in pressing this project on a resistant Liberal government.

The post-war civil libertarian associations were led by many of the figures – mainly social democrats, Social Gospellers, and unionists – who had pioneered the cause in the 1930s. By now, McGill law professor Frank Scott, a founder of the CCF, had emerged as Canada’s leading civil libertarian, while B.K. Sandwell, long-time editor of Saturday Night, and a young Jewish lawyer, Irving Himel, would commit themselves to many years of service to civil liberties associations. However, the evolving civil libertarian lobbies faced severe political infighting between liberals and social democrats on one hand, and Communists and their supporters on the other. The most dynamic civil libertarian lobby that emerged in response to the spy trials was a renegade group that split in April 1946 from the more moderate Civil Liberties Association of Toronto – the Emergency Committee for Civil Rights – which in turn soon became the Civil Rights Union. This group, although including prominent social democrats and liberals, contained enough Communists and supporters to be tarred as a ‘Communist front’ in the politics of the emerging Cold War. Soon Communists and their supporters would take control of the Montreal and Ottawa civil liberties associations, as bitter infighting over Communist membership and leadership frustrated efforts to form a national organization and severely compromised the human rights cause.

These years also saw planning begin within the United Nations for what would become the Universal Declaration of Human Rights, with the Canadian John Humphrey playing a central role as director of the UN Secretariat’s Human Rights Division and secretary to the UN Human

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7 Scott, son of the famous Great War padre Canon Frederick George Scott, had supplanted his former High Church Anglicanism with humanism, democratic socialism, and ‘freedom’ embraced as ‘a way of life, a social religion.’ Scott nevertheless viewed his career as a vocation, fulfilling ‘in a queer way’ as he later claimed, his father’s earlier hopes that he would enter the church. Interview by Elspeth Chisholm, ca. 1973, F.R. Scott Papers, MG 30, D 211, National Archives of Canada, Ottawa (hereinafter cited as NA). See also Sandra Djwa, The Politics of the Imagination: A Life of F.R. Scott (Toronto: McClelland and Stewart, 1987).
Rights Commission. The commission, charged in early 1946 with drafting an international bill of rights, began its task in early 1947 when Eleanor Roosevelt was elected to chair its proceedings. Canadian civil libertarian leaders and groups mobilized to support this venture and 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 mid-November 1948) Louis St Laurent would respond cautiously to the human rights question. The new factor of public opinion polling, initiated by the Canadian Institute of Public Opinion, indicated that a strong majority of Canadians approved of the government’s handling of the spy trials. 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 under the British North American Act, especially by Quebec, and equally attentive to the views of Quebec Liberal MPs (mainly Catholic) who constituted a principal source of party support, the Liberal government in May 1947 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 divert 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.’

The debate in the House of 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.


10 *Toronto Star*, 15 May 1946.


Mackenzie, minister of veterans affairs, introduced debate for the government, giving a lengthy and enthusiastic 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. 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 CCF, berated the government’s abuse of civil liberties during the war, the violations of fundamental legal rights that 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 Prairrie voice of Alberta populism and Protestant sectarianism. J.H. Blackmore expressed resistance to any surrender of Canadian national sovereignty to an intrusive international body; and 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. These MPs shared Duplessis’ aversion to bills of rights, which, in the premier’s view, were full of ‘meaningless big words’ and could never match the

13 Mackenzie, a Liberal member from British Columbia, was an outspoken defender of the wartime decision to relocate Japanese Canadians inland; he had recently opposed the incorporation of human rights ideals within the Canadian Citizenship Act. In early planning for the parliamentary committee, Mackenzie had written to Prime Minister King proposing ‘a delaying tactics committee.’ Mackenzie to King, 18 Nov. 1946, King Papers, document 368906, reel 9173, vol. 401, NA.
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perfection of the Bible as a charter of human rights.\textsuperscript{14} For Eugène 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.’ Marquis concluded, ‘Our liberties rest upon the ten commandments which constitute a charter for free men in a Christian society.’\textsuperscript{15}

Few 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.’\textsuperscript{16} Jean Lesage, a rising star within the Quebec wing of the Liberal Party, and after 1960, premier of the province during Quebec’s modernizing ‘Quiet Revolution,’ pointed to the philosophic principles that informed the political theology of Catholic colleagues like Pinard. It was the philosophy of Saint Thomas Aquinas that provided the ‘the Christian foundation of our democratic principles,’ a foundation that Lesage attributed to the nurturing of Quebec’s classical colleges.\textsuperscript{17}

The parliamentary committee, co-chaired by Minister of Justice Ilsley and Senator Gouin, began its work in June with a review of the draft articles of the Human Rights Commission led by R.G. Riddell, head of the Department of External Affairs UN Division. The committee received several written submissions and heard expert testimony from John Humphrey, who explained the UN drafting process.\textsuperscript{18} Fred Varcoe, deputy


\textsuperscript{15} Canada, \textit{House of Commons Debates} (19 May 1947), p. 3175 (Roch Pinard).


\textsuperscript{17} Canada, \textit{Special Joint Committee of the Senate and the House of Commons on Human Rights and Fundamental Freedoms, Minutes of Proceedings and Evidence} (Ottawa: King’s Printer, 1947).
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 counselled 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. Moreover, 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 Justice Minister Ilsley, while content to have Canada accede to an international declaration of human rights, with moral but not legal effect for UN members, had no desire to provoke a fight with the provinces on jurisdiction over ‘civil rights.’ 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 that 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 the 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 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 that, meeting through the spring and summer of 1947, prepared the early drafts of an international

19 Roebuck’s commitment to protection of civil liberties had a history going back to his resignation as attorney general from the Ontario Liberal government of Mitch Hepburn when repressive measures were taken against strikers in the 1937 Oshawa General Motors factory. His views on civil liberties by 1947 were well in advance of the leadership of the Liberal Party.

20 Canada, Special Joint Committee, Minutes of Proceedings and Evidence, 124.
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bill of rights, although John Humphrey provided a contact at the heart of the drafting process. Early in the deliberations, the discourse among 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 of human rights. Similarly, the 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. P.C. Chang, the Chinese delegate who defined himself as a philosophic pluralist, advised with didactic humour that it might be helpful if Western theorists like Humphrey undertook a lengthy visit to Asia and steeped themselves in Confucian teaching to cure ideas of writing their draft through the perspective of only one world-view. René Cassin, famed international jurist and Jewish exponent of France’s republican, anti-clerical tradition, insisted that only a secular approach to human rights could respect freedom of belief. John Humphrey, in providing the drafting committee with a ‘Documented Outline’ of various national bills of rights and drafts by NGOs, claimed that he was guided in his compilation by no particular philosophic principles. Neither his own draft bill of rights (the ‘Secretariat Outline’), nor the draft by René Cassin, based largely on Humphrey’s outline, gave their projected rights any religious or explicit philosophic foundations. This determined resistance to giving human rights any direct religious sanction in the UN declaration evoked alarm and criticism from international and Quebec 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 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 re-establish the committee soon 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. Several members opposed any extension of civil liberties or endorsement of UN human rights, which would merely provide a smokescreen to allow the treason and subversion of Communists and fellow travellers 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 the government on its recent suppression of the ‘spy ring.’ Quebec Liberal J.F. Pouliot read into the record the names of those suspect individuals who had signed a petition by the Toronto-based Committee for a Bill of Rights and went on to support Quebec’s anti-Communist Padlock Law and the measures taken against Jehovah’s Witnesses.26

Pouliot and others accusing civil libertarians with serving the interests of Communism knew they were touching a sensitive point; liberal and social democratic members continued to have difficulties in preventing Communists and their supporters from penetrating the civil libertarian movement and from taking over several of the leading groups.27 David Croll, Toronto Liberal MP and a leader of the Jewish community, nevertheless vigorously defended the loyalty of the petitioners and advocated renewing the defence of the Canadian political ‘middle,’ in face of the prevailing Cold War 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’ to remedy its deficiencies and reassert the ‘fundamental principles of individual freedom.’

27 Lambertson, ‘Activists in the Age of Rights,’ chap. 3. 5.
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,’ Canada would enter ill-armed into ‘the great ideological conflict that is only beginning to make itself felt at the present time.’

When the Special Joint Committee on Human Rights and Fundamental Freedoms began its second round of meetings in April 1948, co-chaired as before by Ilsley and Gouin, the concern to give human rights a religious foundation again constituted a principal motif. 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 that would add a reference to the name of God in the first article, making clear that for a country like Canada that believed in God, ‘we derive our rights from God, and not from ourselves.’ Senator L.M. Gouin, 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.’

Marquis’ recommendation attracted both Protestant and Catholic members of the committee, and support from all parties; but a minority, sensitive to the religious diversity and secularism represented within the UN, voiced opposition. The Manitoba Conservative C. Miller, although ‘in favour of anything that related to our religion,’ doubted that such a divine referent would be acceptable in the UN context ‘where there would be a lot of religions represented.’ D. Hazen, also Conservative, agreed with Miller, and thought that the committee ‘should avoid theological discussions.’ The UN, with its many religions, could never ‘agree on a God or a Creator,’ and its sessions were therefore not opened with a prayer.

29 Canada, Special Joint Committee of the Senate and the House of Commons on Human Rights and Fundamental Freedoms, Minutes of Proceedings and Evidence (Ottawa: King’s Printer, 1948), 13 May 1948, 52.
30 Ibid., 56.
31 Ibid., 57.
Justice Minister Ilsley 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 House of Commons on 25 June 1948.32

The Report of the Special Joint Committee reflected the extreme reserve of the Mackenzie King government and Justice Minister Ilsley, together with most members of the committee, on the matter of human rights legislation.33 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 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 to its implementation on the part of subscribers. The report also recommended against 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. After the Vatican gave United States bishops special responsibility for articulating Catholic teaching on human rights, in February 1947 the National Catholic Welfare Conference submitted to the Human Rights

32 Canada, Special Joint Committee, Minutes of Proceedings and Evidence (1948), 205–12.
33 During the Liberal convention of the summer, King would resist suggestions that the party adopt a ‘Charter of Liberalism,’ arguing that Liberalism had to remain flexible: while its principles ‘might remain the same,’ the project of a charter was ‘a confining thing: limiting, constricting,’ J.W. Pickersgill and D.E. Forster, eds., The Mackenzie King Record (Toronto: University of Toronto Press, 1970). 4:349–50.
Commission a draft ‘Declaration of Rights’ that set out, in Thomist terms, teaching on the obligations and natural, inalienable rights of the human person, the family, the state, and the international community. 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. Human rights were always presented as part of a political and moral order that found its origin and authority in God. Jacques Maritain continued to articulate Catholic scholarship on human rights, while also playing a prominent role in a 1947–8 UNESCO symposium that engaged leading political theorists from member countries on the nature and foundations of human rights.

In the summer of 1948 Anglican bishops from around the world met in London for the first post-war Lambeth Conference. Here, in denouncing the cruelties and false doctrines of the recently defeated totalitarian states and the new menace of Communism, the bishops put forward as their first subject ‘The Christian Doctrine of Man,’ which alone could serve as the foundation for human rights. 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.”

While the major international Protestant and Catholic statements had
each articulated a theology of human rights, none of them had called for
an explicitly confessional Christian reference to serve as the foundation
or preamble for a declaration that was to be ‘universal,’ inclusive of the
plurality of religions of UN members, and respecting the freedoms, as
well, of the non-religious. Indeed by this time, leading Protestant and
Catholic spokesmen had addressed the problem of pluralism and con-
ceded that however they defined the origin and justification of human
rights within their own confessions, they could not expect to impose
their theological principles on those subscribing to a universal charter, so
long as the latter was ‘acceptable from the Christian standpoint.’

Nevertheless, when the Economic and Social Council of the United
Nations (ECOSOC) reviewed the drafts of the Human Rights Commission
in the summer of 1948, the Canadian delegation, following the principal
views expressed in the Special Joint Committee of Parliament, was
instructed ‘at least to place on the record the view that the name of God
should be embodied in the first article of the Declaration.’ Accordingly,
the Canadian delegate, L.A.D. Stephens, speaking before ECOSOC, ad-
vised that Canada ‘fully agreed’ with an amendment to the first article of
the draft declaration that would specifically refer to the ‘Creator’ as the
source of rights, and that Canada would support such an amendment in
the upcoming meetings of the General Assembly. The ECOSOC, much to
the disappointment of the Canadian government, decided not to review
at length the draft declaration, but rather to hand it over, unrevised, to
the General Assembly.

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 that would have

38 World Council of Churches, The First Assembly of the World Council of Churches

39 See Nolde, Free and Equal, 38, and Jacques Maritain, ‘On the Philosophy of Human
Rights,’ in Human Rights: Comments and Interpretations, 72.

40 ‘Commentary for the Use of the Canadian Delegation,’ file 5475-DG-3-40, vol. 3699,

41 UN Document E/SR.216, 655.
added a description of man as ‘Created in the image and likeness of God,’ thereby giving a transcendental referent to precede and justify the human rights that followed. 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. 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 threatened to vote against the whole declaration if a religious referent were included. 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 Brazilian and Dutch amendments were discreetly withdrawn. 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 La Déclaration des Droits de l’Homme et du Citoyen had been drafted in 1789.

Canadian delegates faced an unenviable role in the work of the Third Committee; they had been instructed to work for the inclusion of a divine reference in the draft declaration, and were prepared to give backing to the Brazilian amendment. 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. 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, 31 August to 3 September, had voiced serious reservations about 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.46 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. There 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’s handling of such matters as the wartime control of Japanese Canadians and the conduct of the recent spy trials. He also had criticized the draft’s clauses on social and economic rights as statements of ‘political economy, not human rights.’47 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 US 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.’48

Although the triumphalist confessionalism of Hackett offended incipient pluralist values, his views, and those of the CBA, had major influence with St Laurent and his cabinet colleagues. Hackett had been a friend since childhood and enjoyed direct access to St Laurent, and also

48 Canadian Bar Association, 1948 Year Book, 94–103.
to Lester Pearson, who would succeed St Laurent as external affairs secretary when the latter became prime minister, 15 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. 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 21 September agreed to a policy that instructed its delegation in Paris to give general support to the draft declaration, but to press for delay and referral to international legal experts.49 Soon, however, concerns about 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.50 This policy was affirmed by St Laurent’s new cabinet in its meeting of 17 November, even though Pearson made it clear from Paris that there was little hope for referral of the draft declaration or delay of the UN voting.51

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 24 November, 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; and 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.’52 Informed of these pronounced reservations, Canadian

51 Cabinet Conclusion, 17 Nov. 1948, vol. 2642, A5a, RG 2, NA.
52 Cabinet Conclusion, 24 Nov. 1948, vol. 2642, A5a, RG 2, NA; Acting Secretary of State Brooke Claxton to Pearson, 25 Nov. 1948, file 5475-DP-40, vol. 3701, RG 25, NA.
delegates in the Third Committee continued to play a passive role, merely recording the government’s concerns and reservations on specific articles of the draft declaration. They then abstained 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. But after Pearson warned from Paris that such an abstention would be politically embarrassing, the cabinet agreed reluctantly to a positive vote when the declaration was passed on 10 December. Canada thereby avoided being grouped with a small, select band of abstainers – the Communist bloc, Saudi Arabia, and South Africa.53

Canadian 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. John Humphrey in his diaries denounced Pearson’s performance, in abstaining in the Third Committee and then qualifying the positive vote in the General Assembly, as ‘niggardly.’54 The historian Arthur Lower, a leading civil libertarian at United College, University of Manitoba, wrote to St Laurent that he found Pearson’s performance, and the resort to the ‘goblin’ of provincial rights, ‘mortifying in the extreme.’ St Laurent replied heatedly to Lower, denying inferences of provincialism, and doubting if the cause of good federal–provincial relations could be advanced ‘by subscription to declarations which we are powerless to implement and which are apt to arouse hopes we are in no position to fulfil.’ St Laurent argued that it was at least arguable ‘that more is done to maintain human rights by scrupulous respect for the rights which are established by law than by subscription to declarations which, it is well known, few, if any, of the subscribers, intend to implement.’55

The government’s scepticism and hesitations in endorsing 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’ anti-Communism, now

53 Cabinet Conclusion, 8 Dec. 1948, vol. 2642, A5a, RG 2, NA; See also Schabas, ‘Canada and the Adoption of the Universal Declaration of Human Rights,’ 432–8.
55 A.R.M. Lower to St Laurent, 11 Dec. 1948; St Laurent to Lower, 23 Dec. 1948, file ‘Department of External Affairs ... Declaration of Human Rights,’ vol. 43, St Laurent Papers, NA.
given added fuel in Catholic circles by the arrest and trial by the Hungarian Communists of 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, the theme of human rights went unmentioned. Senator Arthur Roebuck, who had voiced his keen disappointment at the ‘miserable report’ that had emerged from the 1948 Special Joint Committee, in November 1949 moved in the Senate that the government submit to a forthcoming Dominion–Provincial Conference an amendment to the British North America Act in the form of ‘The Canadian Bill of Human Rights and Fundamental Freedoms.’ Roebuck read this draft bill, prepared by the currently most dynamic Canadian civil liberties coalition, the Toronto-based Committee for a Bill of Rights, into the Senate record. When St Laurent and government spokesmen in the Senate soon made it clear that there was no hope of submitting such a controversial proposal to the impending conference, Roebuck withdrew his motion in December, at the same time indicating that he was encouraged by the growing support for human rights protection and that he would return with new proposals when Parliament reassembled after the new year.

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 chairmanship of the committee and 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. Scott. Gordon, a former teacher at the McGill Theological College and now working in the United Nations Division of Human Rights under John Humphrey, presented a powerful and eloquent brief for the historic import of the declaration, which, along with the UN charter, represented ‘the will of peoples’ of the world. After describing the leading features of ‘this great document’ and

its growing normative impact on the work of the UN and its members, Gordon concluded enthusiastically that ‘the demonstrated moral and political authority of the declaration, its actual influence on the history of our time,’ made the question of its legal binding force ‘somewhat academic.’ When Quebec senators rehearsed their aversion to any invasion of provincial rights under the rubric of the declaration, Roebuck interjected that the next witness, F.R. Scott, would ‘attack that phase of the matter.’

Frank Scott 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. Scott had recently published a major article in the *Canadian Bar Review* that powerfully advocated a renewed initiative to extend human rights and freedoms in Canada. This article, which Roebuck lauded as ‘the best document that I have seen on the subject in Canada,’ surveyed the wide jurisdiction the federal government could claim in the protection of human rights by means of a statutory bill of rights, buttressed by the powers it could exercise through the criminal code, the treaty-making authority, its governance of the North West Territories, and a rightful constitutional reclamation of residual powers assigned to it under section 91 of the British North America Act. Scott reviewed these arguments before the committee, while also repeating the case for his favoured course: a constitutionally entrenched bill of rights, either by means of a British-legislated amendment to the BNA Act or, much more preferably, a Canadian addition to a patriated constitution. Faced with sceptical probing by Quebec senators, Scott stated his conviction that the impediments of provincial jurisdiction could be surmounted and that the provinces had everything to gain by joining in a cooperative effort to protect the rights and liberties of all Canadian citizens.

The briefs of Gordon and Scott were received respectfully by most members of the committee, even if several senators expressed reservations about the nature and scale of the changes being advocated. Indeed,

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59 The Padlock case addressed infringement of the civil liberties of Quebec Communists, whereas the Roncarelli case derived from Premier Duplessis’ peremptory removal of the liquor licence of Roncarelli’s restaurant because, as a Jehovah’s Witness, he had been financing bail for arrested co-religionists. Eventually, Scott would be successful in both cases. See Djwa, *The Politics of Imagination*, 297–317.
both Gordon and Scott were propounding a new, secular 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 antidemocratic creeds.’ 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 is ‘a force itself,’ a ‘constructive and creative influence in society.’

Neither Scott nor Gordon, despite their Christian patrimony, had intimated any need for a religious referent to ground or legitimate human rights. Many of the submissions to the Senate committee that came in from local civil liberties groups, as well as the larger Toronto-based Association for Civil Liberties, although often supported by church groups, also refrained from any explicit religious grounding of human rights. For the most part they were content to speak of the inherent worth and dignity of the human individual who was therefore, as an assumed axiom, possessed of certain rights. However, the debates attending passage of the declaration had, by now, generated extensive politico-theological reflection on the part of both church leaders and politicians about the nature and foundation of human rights and the proper role of governments in relation to such rights. The Canadian Council of Churches, founded in 1944 and encompassing all the major Canadian denominations with the exception of the Roman Catholics, submitted a brief to the Senate committee that 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 declaration, and favouring constitutional entrenchment of a Canadian bill of rights, was anxious to place such support within an explicitly Christian 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.

62 Ibid., 25.
63 Ibid., 337–41.
For the United Church General Council, personal rights and liberties derived ‘from the sovereignty of God and the nature of man as made in the image of God.’64 Canadian Anglican leaders voiced similar themes: Dr. R.S.K. Seeley, provost of Trinity College, University of Toronto, and president of the Civil Liberties Association of Toronto, argued before the committee that while support for the idea of human rights was largely axiomatic in Canada, this was so only because Canadians had ‘absorbed into our corporate thinking the Christian doctrine of man on which human rights are based.’65

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 that had been articulated by religious leaders and held such deep appeal, especially for the Quebec members of the committee.66 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.’67 The details of such a bill were not given, but were seen as following in general the provisions of the declaration, with certain reservations and qualifications relating to the maintenance of order and good government and the suppression of subversion.

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, with the Supreme Court of Canada now the court of final resort; 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

64 Ibid., 358–9.
65 Ibid., 129–35.
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.

Let it be said in the future that when Canada assumed complete control of her destiny, her first act was to affirm as the basic principle of her federation, the Human Rights and Freedoms of all her citizens.68

As Senator Roebuck well knew, while this vision appealed deeply to the Canadian social democratic and liberal Left, and to the social conscience of mainstream Protestantism, it held much less attraction for Catholicism, especially in Quebec, or for sectarian Protestantism. The ‘human rights revolution’ hailed by such civil libertarian leaders as John Humphrey, Frank Scott, 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 Senate committee’s deliberations, anxious to accommodate religious opinion and the sensibilities of his Quebec Catholic colleagues, Roebuck had recorded the committee’s agreement with the suggestion that any preamble to a Canadian bill of rights should make explicit recognition of God as the giver of rights.69 Senators resoundingly endorsed the views of the clergy 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.’70 The report concluded by reaffirming Canada’s Christian pluralism: Canada was ‘a Christian country’ where all should ‘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.71

The deliberations and report of the Roebuck Committee indicate clearly the continued integration of Canadian Christianity and liberalism, each

68 Canada, Special Joint Committee of the Senate and the House of Commons on Human Rights and Fundamental Freedoms, Minutes of Proceedings and Evidence (Ottawa: King’s Printer, 1950), 305.
69 Ibid., 184.
70 Ibid., 302–3.
71 Using an earlier draft, Roebuck indicated the compromises ‘necessary to get the report by the Committee’: the deletion of evidence received on violations of civil liberties, and excision of a more positive endorsement of an entrenched bill of rights, vol. 3/11, C68, MG 32, Arthur Roebuck Papers, NA.
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 25 June 1950 the Korean War broke out – a war that once again sent Canadian forces into combat, now under the banner of United Nations collective security. These events helped to generate extreme forms of anti-Communism in the 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 was much less zeal in Canada for mobilizing public 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 shelved and ignored. Moreover, while federal-provincial relations were subject to the vigilant eye of Quebec premier Duplessis, the St Laurent government had no desire to provoke provincial opposition with initiatives for either an entrenched or statutory bill of rights. When civil libertarian groups organized a large delegation in May 1951 to convene in Ottawa and press upon 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 noncommittal.’

It was not just the alarms of the Cold War, however, that 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 jurisdiction and Catholic identity under a program to protect human rights. Furthermore, 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, rites, and institutions. Civil libertarians like Scott, Gordon, and Humphrey were viewed from this perspective as prophets of a secular, pluralist Canada.\textsuperscript{73} For conservative Protestants and Catholics alike, a secular pluralism was almost as disconcerting as Communism. Social Credit MP Rev. Ernest Hansell had voiced these misgivings most clearly when, in the proceedings of the 1948 Joint Parliamentary Committee, he reiterated fears expressed previously by Catholic conservatives that the Universal Declaration of Human Rights, in offering equal rights to atheists, was going beyond freedom to licence. His intuition was ‘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.’\textsuperscript{74} Hansell’s Catholic colleague on the committee, John Hackett, attentive to these views, noted that Canada’s civilization would find itself confronted with the contradictory elements of many civilizations.\textsuperscript{75} Clearly, Protestant and Catholic conservatives were agreed that the path from the prevailing Christian pluralism of Canada’s national churches, to a religious pluralism inclusive of non-Christian faiths, or a secular pluralism that excluded religion from the public domain, was to be resisted and averted – even if the concept of pluralism remained as yet embryonic and largely undefined.

The troubling prospects of pluralism were far from Louis St Laurent’s mind; in the spring of 1949 he expressed gratitude ‘that the relations between Church and State are so helpful in our country,’ and the hope that ‘future generations should maintain them.’\textsuperscript{76} The new decade of the 1950s would see Canadian Liberal leaders continue to speak of Canada as a Christian democracy, a responsible and proactive middle power defending Western Christendom against the ideological and military menace of Communism. St Laurent remained happy to sustain the government’s practice of legitimating government authority and building

\textsuperscript{73} Scott’s and Gordon’s socialism supplanted their former Anglican and United Church heritage, while Humphrey, an anticlerical rationalist, thought that for socialism to succeed, it needed ‘something like the Christian morality without the tommyrot.’ Humphrey Diaries, 8 Sept. 1948, cited in A.J. Hobbins, ‘Human Rights inside the United Nations: The Humphrey Diaries, 1948–1959,’ Fontanes 4 (1991), 147.

\textsuperscript{74} Canada, Minutes of Proceedings and Evidence (1948), 160.

\textsuperscript{75} Ibid., 160–1.

\textsuperscript{76} St Laurent to T.L. Church, 14 Mar. 1949, file, ‘Religion, General, 1948–49,’ vol. 70, St Laurent Papers, NA.
support for policy with explicitly religious rhetoric that combined liberal and Christian themes. Speaking to the convocation of the University of Toronto in the fall of 1950 and acknowledging his long-term indebtedness to the teachings of Jacques Maritain, 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.77

This conception of Canadian nationhood, which fused Christian theology and democratic ideology, had a long lineage in Canadian political culture and deep roots in Canadian Catholicism and Protestantism. Canada would adopt a statutory Bill of Rights under the leadership of John Diefenbaker’s Progressive Conservative government in 1960, an instrument that manifestly expressed the enduring imprint of religion on Canadian jurisprudence, its preamble ‘affirming that the Canadian Nation is founded upon principles that acknowledge the supremacy of God, the dignity and worth of the human person and the position of the family in a society of free men and free institutions.’78

The human rights revolution reached critical mass in Canada only in 1982, when the Liberal government of Pierre Trudeau, friend and acolyte of Frank Scott, accomplished the two ultimate goals of the Roebuck Report: patriation of the Canadian constitution and the entrenchment of a Charter of Rights and Freedoms. By this time, however, the political functions of religion in Canada, and within the Liberal Party, were undergoing radical alteration, as Trudeau, querying the intense pressures of religious and political conservatives to have a religious referent inserted in the preamble to the new charter, thought it ‘strange, so long after the Middle Ages that some politicians felt obliged to mention God in a constitution which is, after all, a secular and not a spiritual document.’79

78 Canadian Bill of Rights, S.C. 1960, c. 44.
Strangely enough, a mobilization of vestigial conservative religious lobbies would convince the Liberal Party to include in the preamble to the Canadian Charter of Rights and Freedoms the reaffirmation that ‘Canada is founded upon principles that recognize the supremacy of God and the rule of law.’ But Trudeau perhaps best caught the rising tide of secular pluralism in his quip to the Liberal caucus: ‘I don’t think God gives a damn whether he’s in the constitution or not.’