Van Presby Evangelism + Social Service 1932-1953

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Van Presby

Evangelism + Social Service

1932-1953

MOTION PASSED BY THE SENATE ON MARCH 20, 1950, ESTABLISHING A SPECIAL SENATE COMMITTEE ON HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS.

That a special committee be appointed to consider and report on the subject of human rights and fundamental freedoms, what they are and how they may be protected and preserved, and what action, if any, can or should be taken to assure such rights to all persons in Canada, and that for greater certainty, but not so as to restrict the generality of the foregoing, that the committee give consideration to the following draft articles:

ARTICLE 1

Everyone has the right to life, liberty and the security of person.

ARTICLE 2

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

ARTICLE 3

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

ARTICLE 4

Everyone has the right to recognition throughout Canada as a person before the law.

ARTICLE 5

All are equal before the law and are entitled without any discrimination to equal protection of the law.

ARTICLE 6

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

ARTICLE 7

(1) No person shall be subjected to arbitrary arrest, detention or exile.
(2) Any person who is arrested or detained shall be promptly informed of the reasons for the arrest or detention and be entitled to a fair hearing within a reasonable time or to release.
(3) No one shall be denied the right to reasonable bail without just cause.

ARTICLE 8

Every person who is deprived of his liberty by arrest or detention shall have an effective remedy in the nature of habeas corpus by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

because man is spiritual, the very universe is spiritual basically, and a materialistic order carries within itself the germs of its own decay. "To be carnally minded is death, but to be spiritually minded is life and peace".

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ARTICLE 9

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

ARTICLE 10

(1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

ARTICLE 11

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

ARTICLE 12

Everyone legally resident in Canada has the right to freedom of movement and residence within the country, and the right to leave and return to Canada.

ARTICLE 13

(1) Men and women of adult age, without any limitation dues to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage and during marriage.
(2) Marriages shall be entered into only with the free and full consent of the intending spouses.
(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and state.

ARTICLE 14

(1) Everyone has the right to own property alone as well as in association with others.
(2) No one shall be arbitrarily deprived of his property.

ARTICLE 15

Everyone has the right to freedom of thought, conscience and religion, this right includes freedom to change his religion or belief, and freedom, either alone or in community with others, and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

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ARTICLE 16

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

ARTICLE 17

(1) Everyone has the right to freedom of peaceful assembly and association.
(2) No one may be compelled to belong to an association.

ARTICLE 18

(1) Everyone has the right to take part in the government of the country, directly or through freely chosen representatives.
(2) Everyone has the right of equal access to public service in the country.
(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine election which shall be by universal and equal suffrage and shall be held by secret vote.

149. Every person is entitled to all the rights and freedoms above set forth, without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

150. Any person whose rights or freedoms as herein set forth have been violated may apply for relief on notice of motion to the Supreme or Superior Court of the province in which the violation occurred.

151. The above articles shall not be deemed to abridge or exclude any rights or freedoms to which any person is otherwise entitled.

That the said committee be composed of the Honourable Senators Baird, David, Davies, Doone, Dupuis, Gladstone, Gouin, Grant, Kinley, Petten, Reid, Roebuck, Ross, Turgeon, Vaillancourt and Wood:

That the said committee shall have authority to send for persons, papers and records.

by a GOOD materialistic [illegible] because man is spiritual, the very universe is [illegible] and a materialistic order carries within itself the germs of its own decay. "To be carnally minded is death, but to be spiritually minded is life and peace".

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Dear Sir:

This letter is being sent to you as an officer in an organization that is, or is likely to be, interested in securing the enactment of a federal Bill of Rights for Canada.

In 1947-48 a Special Joint Committee of the Senate and the House of Commons on Human Rights and Fundamental Freedoms offered those Canadian organizations and people who are interested in the enactment of a Canadian Bill of Rights an opportunity to be heard.

Because many organizations and people who really were interested failed to realize either the importance of this event, or their responsibility to make submissions to the Joint Committee, its hearings were inadequately representative of the country. Consequently, it ended without making definitive recommendations.

On April 25-28, 1950, a Special Senate Committee on Human Rights and Fundamental Freedoms, under the chairmanship of the Honourable Senator Arthur W. Roebuck, will commence hearings that will last for several weeks. The appointment of this Special Senate Committee offers Canadians who are interested another and an invaluable opportunity to work for the enactment of a Bill of Rights.

Dr. B. K. Sandwell, Editor of Saturday Night and Chairman of the National Committee for a Bill of Rights, says in a letter of April 4, 1950:

> By making your organization's views known to this Senate committee not only will you be fostering public education in the field of fundamental human rights, but equally important, you will be impressing upon those in government, the fact that such a firm public opinion does exist, and that it is time we provided in Canada proper safeguards for the individual against their infringement. You can readily see therefore that it is of real importance for the promotion and protection of human rights in Canada, that your organization submit a brief to this Senate committee."

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This opinion applies equally to all interested organizations.

The Vancouver Branch of the Canadian Civil Liberties Union is intensely anxious to do everything it can to make the appointment of this Special Senate Committee effective. It is itself submitting a brief immediately; and it is particularly anxious to be of help to other organizations which may wish to make similar submissions.

To this end it has printed and is enclosing:

1. The minute from the Senate recommending the appointment of the Special Senate Committee on Human Rights and Fundamental Freedoms, including the draft Articles cited in the terms of reference.

2. A copy of the Vancouver Civil Liberties Union brief.

The draft Articles listed in the terms of reference are from the first twenty-one articles of the United Nation's Universal Declaration on Human Rights passed in 1948. Articles 22 to 30 inclusive, dealing with social and economic rights, are not included.

The enclosed brief may be used as you see fit; either in its present form, by inserting the name of your organization in the three spaces that have been left blank and by having it signed by an officer of your organization; or as a suggestive source for the writing of an independent brief.

It is important that as many briefs as possible be sent from separate organizations. If, however, in your case, this should prove to be impossible, and you still wish to take some action, you might wish to communicate with the Secretary of the Civil Liberties Union indicating your endorsation of the brief that we are submitting.

It is also important that briefs be sent to the Special Senate Committee to arrive by April 25th. If this date is impossible, we believe that it will still be worth while to send briefs even though they are late. Six copies of briefs which do not follow the C.L.U. brief should be sent. Our information about the dates of this committee is incomplete but we have some reason to believe that there will be sessions held during a period of a few weeks.

Yours sincerely,

D. McNair
Secretary

Hunter Lewis

Enc.

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April 20, 1950

Resolution passed March 28 1950.

PRESBYTERY OF VANCOUVER

OF THE

United Church of Canada

SECRETARY:
REV. A. F. MUNRO, M.A., D.D.
2871 WEST 38TH AVENUE
VANCOUVER, B. C.

Whereas a deputation of the Canadian Temperance Federation waited upon Prime Minister St. Laurent in December, 1949 and were assueded that should the provinces express to him their desire for the appointment of a Royal Commission to study all phases of the liquor problem he would be glad to place the matter on the agenda of the next Dominion-Provincial Conference;

And whereas the Government of Saskatchewan has already indicated its desire for the appointment of such a Royal Commission;

And whereas the traffic has reached such proportions, and whereas there is such a diversity of opinions regarding its effect and methods of regulating it that it requires such a serious study;

Be it therefore resolved that the Vancouver Presbytery of the United Church of Canada request the Government of the Province of British Columbia to indicate its desire for the appointment of the proposed Royal Commission.

And further and until such a Royal Commission makes it s report we are unalterably opposed to any additional facilities for its manufacture or any additional outlets for its consumption in the Province or for a Plebiscite until the Public is fully informed concerning the facts and finding of the proposed Royal Commission.

are included in the universal [illegible]

4. These rights can be protected by merely embodying them in our constitution, without the delay that might be occasioned by the need of the social and economic rights for specific implementing legislation.

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April 20, 1950

The Honourable Senator Arthur W. Roebuck
Chairman
Special Senate Committee on Human Rights
and Fundamental Freedoms
The Senate, Ottawa

Sir:

respectfully takes this opportunity to express its deep appreciation of the foresight, wisdom and active concern with the welfare of the people of Canada that the Senate has shown in setting up, on March 20, 1950, the Special Senate Committee on Human Rights and Fundamental Freedoms, of which you are chairman; and of the statesmanship which you yourself have shown in energetically working for the creation of this committee.

(hereinafter referred to as "we") is pleased to have the opportunity that the creation of your committee has offered it to recommend respectfully that the draft articles included in the terms of reference of your committee be embodied, at least in principle, and as described more fully below, in an Amendment to the British North America Act, 1867.

Although in making this submission we confine our recommendations to the civil, political and legal human rights dealt with in the first twenty-one articles of the Universal Declaration of Human Rights, passed by the General Assembly of the United Nations, on December 10, 1948, we do so only because we believe that, -

1. As principles, they are generally accepted, and are outside the field of controversy;
2. As principles, they are already implicit in our laws and in the traditions of government of Canada and of Great Britain;
3. It is essential, at this time, to prevent the violation of these existing rights, without the delay that might be entailed in establishing the social and economic rights that are included in the Universal Declaration of Human Rights;
4. These rights can be protected by merely embodying them in our constitution, without the delay that might be occasioned by the need of the social and economic rights for specific implementing legislation.

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We wish it to be understood, however, that the omission of reference to the social and economic human rights dealt with in Articles 22 - 30, inclusive, of the Universal Declaration of Human Rights neither indicates nor implies a lack on our part of sympathy or support for them.

Our recommendation falls into two parts; and we beg, hereby, to present it, and a summary of the arguments which support it.

I. We believe that all the human rights and fundamental freedoms asserted in the draft articles provided as terms of reference for your committee should be made more permanent than they are at present, by being embodied specifically in a federal Bill of Rights.

a These human rights represent our hard-won heritage; and in their perpetuation rests the hope of Canadians for their own and their country's future.

b By their very nature human rights are always in jeopardy from attack by people or parties who seek to acquire power. Although the present Parliament of Canada is favorably disposed toward the recognizing of human rights, neither it nor any person can foresee the threats that, even in the near future, may arise and make the existence of legal defences a matter of urgent need for the maintaining of human rights.

c. It is as possible to lose these rights in the present as in the future. Such safeguards as now exist are not sufficient to protect them. Gaps in our laws and distortions of their intentions have allowed them to be seriously violated in recent years; and pressures which threaten to infringe them continue to exist.

In support of this argument we beg to call to your attention the following facts and conditions which, in spite of the democratic character of our constitution and government, constitute serious threats to, or violations of, basic human rights which are generally asserted without challenge to belong to every Canadian, and which are included in the draft articles announced by your committee:

1. Though Canada shows no evidence of being a hotbed of treachery or revolution, it has had more prosecutions for sedition since the enactment of the criminal code in 1892 than all the other countries of the Commonwealth and the Empire put together, excepting India. In Alberta there were more such prosecutions in one year than there had been in Great Britain during the previous century.

2. When Japan entered the war, thousands of Canadian citizens on the West coast were forcibly torn from their homes, transported to, and detained in, camps in the interior, and deprived (by confiscation) of their property; and all these acts were performed without trial or even the laying of any charges whatever. Not until 1949 were these interned citizens allowed to return to the coast.

In 1945 orders-in-council were passed, without reference to Parliament, that were designed to exile 11,000 persons of Japanese origin, a large proportion of whom were Canadian citizens, and none of whom were charged with legal offences of any kind or with disloyalty. That the Government did not enforce this order does not decrease the threat to human rights contained in the fact that it was passed.

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3. In the spy investigations of 1946, suspected persons were seized, denied bail or counsel, held incommunicado, and interrogated by Royal Commissioners before any charge was laid against which they could defend themselves. On findings made in this manner some of these suspects were publicly branded as guilty before they were turned over to the courts for trial; and hence before the courts had an opportunity to reverse the findings, as in some cases they did.

4. Under the Quebec Padlock Laws, the Attorney General may at his own discretion decide that a citizen is carrying on subversive activities, and, without any trial, laying of charges or any other legal formalities, order his premises to be padlocked.

5. Many books and magazines of many kinds are at present forbidden entry into Canada; and any book, at any time, can be so banned at the discretion of an anonymous minor official in the Department of National Revenue.

6. Since 1944, hundreds of members of a minority religious sect, the Jehovah's Witnesses, have been jailed in various cities of Quebec for peddling pamphlets without a licence (obtainable only at the discretion of the chief of police); and they have sometimes been charged with conspiracy and seditious libel because their pamphlets contained attacks on another religion. Frank Roncarelli, a Montreal restaurant owner was arbitrarily deprived of his licence to sell beer and liquor for providing them with bail.

7. The Quebec Court of Appeals recently upheld the validity of a bylaw which prohibited, under penalty, the distribution in the streets of <u>any</u> book, pamphlet, circular, etc. without a written permit from the chief of police.

8. The Prince Edward Island Trade Union Act of 1948 prohibits trade unions from affiliating with other trade unions outside the province. It is also an offence for an outside trade union official to enter the province to deliver an address.

9. As recently as March, 1950, a Chinese delegation protested to the Minister of Citizenship that Chinese residents have not the same rights possessed by other immigrants who have become residents, in bringing their families to Canada.

10. In no province except British Columbia have Canadian Indians been given a vote; and even in British Columbia they are still denied many rights and government services and assistances that belong as matters of course to other citizens of Canada.

II. <u>We believe that a federal Bill of Rights, to serve its purpose fully and permanently, must be enacted as an amendment to The British North America Act.</u>

a Though no Bill of Rights will be effective or permanent without the continued support of the people of Canada, a bill enacted in this way will have greater stability than one enacted in any other way.

b Only by enacting the bill in this way would it be possible to prevent elected representatives who might be injudiciously swayed by public clamour and the passions or prejudices of the moment from precipitately voting it out of existence.

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c Only a federal Bill of Rights can equalize civil liberties across Canada and turn the pious professions of the people and the Government of Canada into actual laws which will bind both parliament and the provincial legislatures in the making of laws, and every public official in the carrying out of the laws.

d Though other rights no more highly prized are guaranteed in our Constitution, and though many Canadians erroneously believe freedom of speech, of association, of the press, and of religion to be so guaranteed, these and other related human rights are not specifically asserted in the Constitution.

e In 1948, the Government of Canada gave officially its approval and support to the Universal Declaration of Human Rights which was passed and proclaimed by the General Assembly of the United Nations. In so doing, the Government of Canada pledged itself, amongst other things, "by progressive measures, national and international, to secure (for the human rights proclaimed therein) universal and effective recognition and observance". The Government is, in consequence - and quite apart from when it shall achieve its full objectives - under a moral obligation to establish at once existing, and immediately achievable human rights on the most effective national foundation - namely, as an amendment to the constitution.

III. We believe that the effective protection of human rights is a deterrent to fascism, an influence for internal and external peace, and an end which is worth striving for in itself.

Therefore,

recommends and

strongly urges:

1. That all the items dealt with in the eighteen draft articles and the three supplementary paragraphs (numbered 149, 150 and 151) cited as terms of reference in the Senate Motion of March 20th, 1950, appointing this Special Senate Committee on Human Rights and Fundamental Freedoms, be specifically incorporated, in the same or other words, in a Bill of Rights.

2. That in such Bill of Rights the following item be added to the above-mentioned draft Articles:

> "No discrimination shall be made against anyone in laws or regulations on grounds of race, sex, language or beliefs, or on any ground mentioned in the paragraph numbered 149 in the Motion appointing this Special Senate Committee."

3. That such Bill of Rights be enacted by incorporating it in the British North America Act in the form of an amendment or amendments.

3(a) Or, that it be enacted in some other manner which will make its contents equally, or more, inaccessible to changes made to fit special circumstances, temporary acquisitions of power, or the vagaries of public clamour, passion, or fanaticism.

We respectfully request that your Committee give these recommendations your approval and that they take such steps as are necessary to secure their enactment as law.

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