

THE ASSOCIATION FOR CIVIL LIBERTIES

March 12th, 1951

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Last spring a Special Committee on Human Rights and Fundamental Freedoms was set up by the Senate under the chairmanship of Senator Arthur W. Roebuck. Its purpose was 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."

It received briefs from a large number of organizations. Among them were, the United Nations Division of Human Rights; The National Council of Women in Canada; The Canadian Congress of Labour; The Trades and Labour Congress of Canada; The Canadian Association for Adult Education; The Canadian Committee for a Bill of Rights; The Department of Social Relations of the Canadian Council of Churches; The Canadian Jewish Congress; The National Young Adult Program Committee, Y.M.C.A.; The Church of England in Canada, Executive Committee, Department of Christian Social Science; The Board of Social Service and Evangelism, Baptist Convention of Ontario and Quebec; The Co-ordinating Committee of Canadian Youth Groups; The Magazine Publishers' Association of Canada; The Periodical Press Association; The Dominion Women's Association of the United Church of Canada; The Committee on Group Relations in Canada.

We are enclosing a copy of the brief which was submitted by our Association to this Committee. This brief was endorsed by about 25 organizations.

Because of the widespread public interest in this subject of human rights and fundamental freedoms in Canada, and the importance of the recommendations which this Special Senate Committee made, we are pleased to send you a copy of its report.

We sincerely hope that this brief and report will receive your earnest consideration and invite your support of them.

We trust that you will oblige by favouring us with your views on this subject.

Yours very sincerely,



B. K. Sandwell,
Chairman of Committee
for a Bill of Rights.

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R E P O R T

The Special Committee on Human Rights and Fundamental Freedoms beg leave to report as follows:

By order of reference made on the 20th day of March, 1950, your Committee was authorized and directed 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 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.

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 laws, 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 due 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.

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 Court 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 Honorable senators Baird, Davies, David, 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.

In obedience to this order of reference, your Committee has inquired into the general subject of Human Rights and Fundamental Freedoms and has held eight public sessions in the course of which thirty-six witnesses have been heard. Witnesses appearing in person before your Committee and testifying are as follows:

- April 25, Prof. F. R. Scott, Faculty of Law, McGill University, Montreal
Mr. King Gordon, United Nations Division of Human Rights.
- April 26, Mr. Irving Himel and Dr. Malcolm W. Wallace, Association of Civil Liberties
Mrs. Robert Dorman, National Council of Women in Canada
Mrs. E. R. Sugarman, National Council of Jewish Women of Canada
- April 27, Messrs. Monroe Abbey and Saul Hayes, Canadian Jewish Congress,
Dr. E. A. Forsey, Canadian Congress of Labour
Mrs. M. H. Spaulding, League for Democratic Rights
- April 28, Mr. F. P. Varcoe, Deputy Minister of Justice, Ottawa
Mr. J. M. Magwood, Chairman, National Young Adult Program Committee, Y. M. C. A.
Dr. R. S. K. Seeley, Provost of Trinity College, University of Toronto
Dr. E. A. Corbett, Director, Canadian Association of Adult Education.
- May 2, Mr. R. Grantham, Associate Editor of the Ottawa Citizen
Mr. Claude Jodoin and Mr. Leslie Wismer, MPP, Trades and Labour Congress of Canada
Mrs. G. N. Kennedy, Mrs. C. E. Catto, Prof. D. H. Hamly,
Mrs. D. C. MacGregor, and Mr. H. A. Miller, World Federalists, Toronto.
- May 3, Mr. Leon Mayrand, Assistant Under-Secretary of State for External Affairs
Mr. A. J. Pick, Department of External Affairs, Ottawa
Rev. Dr. Wm. Noyes, Secretary, Committee for the Repeal of the Chinese Immigration Law.
Mr. B. K. Sandwell, Editor, "Saturday Night", Toronto
Mr. F. A. Brewin, K.C. Canadian Committee for a Bill of Rights
- May 9, Mr. Morris Biderman, United Jewish People's Order
Mr. Edmond Major, Civil Liberties Union, Montreal
Ven. Archdeacon C. G. Hepburn, Executive Committee of the Department of Christian Social Service of the Church of England in Canada.
Mr. Lyle Talbot, Windsor Council on Group Relations.

May 10, Miss C. Wilson, Save the Children Fund
 Mr. R. K. Ross, K.C., St. Catharines, Ontario.
 Mr. George Tanaka, National Japanese-Canadian Citizens' Association
 Miss Mary McCrimmon and Mr. Ben Nobleman, Canadian Youth Groups.

Many of those testifying presented the Committee with written briefs and, in addition to these many briefs and statements have been received from persons and organizations.

The witnesses who testified or presented briefs gave freely of their time, thought, and effort in a public spirited endeavour to assist your committee by the imparting of their knowledge and convictions on the important subject under consideration. Your committee expresses its gratitude for the generous assistance which it has received.

Your Committee was urged to recommend the incorporation into Canadian law of the United Nations Universal Declaration of Human Rights and Fundamental Freedoms. Your committee finds, however, that the Universal Declaration, as its name implies, was drafted for general application and was not designed with special reference to Canadian conditions with our divided jurisdiction and individual history. This finding also applies to the draft articles appearing in the Senate Resolution, most of which are copied from the Universal Declaration. Witnesses before your Committee addressed themselves to the general principles of the Human Rights and Freedoms and scarcely at all to the items in detail.

Your committee prefers to express its own thoughts as applied to Canadian problems rather than to attempt to base its report on these individual paragraphs.

A Basic Conception

As a result of its inquiries, your committee is assured that there are a very large number of persons in Canada who are deeply interested in the subject of Human Rights and Fundamental Freedoms and that much thought has been devoted by our citizens to the subject. That every man, woman and child has rights is generally accepted as axiomatic and that such rights should be protected is a conviction as universally held.

Your committee also agrees with this view, holding that every human being irrespective of mere classifications on account of race, creed, sex, caste or colour, and other like distinctions has rights which flow from His Divine creation. The brotherhood of man results from the Fatherhood of God, and a fundamental equality among men necessarily follows. 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. They may be violated by men, but not with impunity. They should be recognized and every care should be taken to preserve them inviolate. Individuals, communities and governments do wrong when they attempt to take such rights away or to disregard them. The invasion of the rights of an individual is wrong irrespective of how many share the guilt, and though the wrong be at the instance of government.

This Brief is submitted by The Association for Civil Liberties.

The Members of the Association's Executive include:

President:	Rev. Dr. R.S.K. Seeley	Chairman, Committee for a Bill of Rights: Dr. B.K. Sandwell
Vice-Presidents:	Prof. Harry M. Cassidy Rabbi A.L. Feinberg Mrs. W.L. Grant Charles H. Millard, M.P.P. Joseph Sedgwick, K.C. Dr. Malcolm Wallace	Chairman, Committee for Academic Freedom: Dr. Malcolm Wallace Chairman, Committee on Group Relations: Miss Vivien Mahood
Treasurer:	Rev. W.P. Jenkins	Chairman of Legal Committee for Civil Rights: J.S. Midanik
Executive Secretary:	Irving Himel	

The Brief is also supported by the following Organizations:

National Student Christian Movement	Unity Organization of Dresden, Ontario
Canadian Council of Youth Groups	Local 252, United Automobile Workers, Toronto
Inter-Ethnic Citizens' Council of Toronto	United Steel Workers of America, Local 3129, Toronto
Hamilton Labour Council	Toronto Christian Brotherhood of Coloured People
National Council of Jewish Women	United Steelworkers of America, Local 1305, Hamilton
Fellowship of Reconciliation	First Unitarian Congregation, Toronto
Canadian Japanese Citizens' Association	Toronto World Federalists
London Inter-Race Inter-Faith Committee	Ladies' Auxiliary Brotherhood of Sleeping-car Porters
Joint Labour Committee to combat Racial Intolerance	The Windsor Council on Group Relations
Chinese Community Centre of Ontario	
Wakunda Foundation	
Toronto Lodge, B'Nai B'rith	
The Canadian Nurses' Association	
The Dominion Women's Association	
Council of the United Church of Canada	

Dear Mr. Chairman and Members of
the Senate:

May we, on behalf of the many Canadians whom we represent, congratulate the Senate on its establishment of this Committee. May we also say how glad we are that you have agreed to serve on this Committee. We are well aware that your doing so was at some considerable personal sacrifice. It should be a source of no small personal satisfaction to you, however, to know that large numbers of your fellow countrymen deeply appreciate what you are doing. And we are confident that future generations of Canadians will have even greater cause to be indebted to you.

From the motion which the Senate passed setting up your Committee, we take it that your task is to consider and report on the subject of human rights and fundamental freedoms with these questions in mind:

1. What are the human rights and fundamental freedoms every Canadian should have?
2. How may they be protected and preserved?
3. What action, if any, can or should be taken to assure human rights and fundamental freedoms to all persons in Canada?

We propose in this brief, therefore, to attempt to answer these questions in the hope that our views will be of some assistance to your Committee in making its report.

I.

What are the human rights and fundamental freedoms every Canadian should have?

In our opinion, every person in Canada should be able to say that he has these human rights and fundamental freedoms:

Right to life,
liberty and security of person

1.

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

Right to freedom from slavery

2.

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

Right to freedom from cruel treatment or punishment

3.

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

Right as person before law

4.

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

CIVIL LIBERTIES BULLETIN

Number 3. Issued by the CIVIL LIBERTIES UNION 3430 Park Ave. PL 8428

ON FRIDAY, JANUARY 27th, THE BUILDING OCCUPIED BY THE UNITED JEWISH PEOPLE'S ORDER, AT 5101 ESPLANADE AVENUE, WAS PADLOCKED BY ORDER OF PREMIER DUPLESSIS, THE ATTORNEY-GENERAL OF QUEBEC. The United Jewish People's Order is a fraternal and cultural organization, affiliated to and forming part of the Canadian Jewish Congress. It has approximately 1000 members in Montreal, and the building which was closed down served as a centre for its cultural and social activities. Its construction in 1947 was made possible through contributions from its members and other interested citizens. A copy of the U.J.P.O.'s "Statement of Purpose" is enclosed.

"WITHOUT DUE PROCESS OF LAW"

Under this title, the widely known Canadian weekly journal, "Saturday Night," has published an editorial in its issue of February 7th, commenting as follows on Mr. Duplessis' action:

"We have not, and nobody has, and nobody has any right to have, the slightest idea on what grounds Mr. Duplessis believes (the premises of the United Jewish People's Order) to have been used (for the propagation of communism). Mr. Duplessis is not responsible to anybody for this belief. He does not have to produce any evidence, either before a court or before the legislature or before the bar of public opinion. He is absolute master of every piece of property in the Province of Quebec, so far as the provisions of this law extend. He could close the Palace of the Anglican Archbishop of Quebec, or the Anglican Cathedral for that matter, and nobody could say him nay. He is policeman, prosecutor, judge, sheriff and hangman. The Padlock Law makes him so.

"We have not the slightest idea whether the property of the U.J.P.O. has been used for the propagation of communism or not. We have seen no evidence one way or the other, and

neither we nor any citizens of the Province of Quebec have any right to ask for the production of any..... The U.J.P.O. has not been proved guilty of any offence against the criminal law..... He is depriving them of their property by his own absolute power, conferred upon him by the Quebec Legislature. They are of course a minority and pretty helpless; but there was a time when Quebec was supposed to be solicitous about the rights of minorities."

"ARBITRARY POWER"

In an editorial entitled "Infringing Civil Liberty in Quebec," the Ottawa Citizen on February 2nd stated, "Under the Padlock Law the Attorney-General of Quebec, who is also the Premier, can take drastic measures against whatever he is pleased to term 'subversive activities.' The fact that an appeal is possible to the Superior Court makes this legislation none the less objectionable. It is a device by which an official in one province has acquired power to interfere arbitrarily with activities that break no law of Canada."

"FOREIGN TO DEMOCRACY"

A Canadian Press story of February 3 reports as follows: "The Association for Civil Liberties in a letter to-

A few days after the U.J.P.O. building was padlocked, four persons were arrested while calling at people's homes to ask them to sign a petition addressed to Mr. Duplessis which requested him to order the padlock removed from the building. The four were charged under the Criminal Code with disturbing the peace by ringing doorbells.

The C.L.U. feels that the denial of this elementary right of petition should certainly meet with wide protest and respectfully urges all individuals and organizations to write to Mr. Asselin, Chairman of the Executive Committee of the City of Montreal and/or to the editors of the daily newspapers.

day to Premier Duplessis of Quebec called for lifting of the padlock order against the Montreal home of the United Jewish People's Order and for lifting the ban on distribution in Quebec of National Film Board productions.

"The letter, signed by B.K.Sandwell, chairman of the committee for a bill of rights, and R.S.K.Seeley, president of the Association for Civil Liberties, among other signatories, said the appeal was made in a spirit of deep respect for Quebec's tradition of freedom. Without evidence of a change in policy the Canadian people would be bound to conclude that your government intends to pursue a course which encroaches on basic liberties and is foreign to the Canadian democratic tradition."

A THREAT TO ALL

The above quotations illustrate in sharp relief the extraordinary and arbitrary power which has been placed in the hands of Mr. Duplessis by the Padlock Law and the grave threat which this power represents to the preservation of civil liberty in our Province. The Civil Liberties Union believes that the people of Quebec are just as solicitous as ever about the rights of minorities. We do not believe they would approve of a law which permits one man to be the judge of what a person may print, publish or distribute, what books a person may sell or own, what public meetings may be held, what buildings may be closed down. Yet the Padlock Law permits Mr. Duplessis, as Attorney-General, to do all these things.

It is claimed that the purpose of the Law is to prevent the "propagation of communism." Even this is no offence against the criminal law. Experience has shown, however, that the intent and application of the Padlock Law goes far beyond that. There is no definition of "communism" contained in the Law, and the lack of it is not accidental but deliberate. It permits the Padlock Law to

be applied against whatever Mr. Duplessis chooses to call "communism," and we know from his own words and actions that his interpretation of "communism" covers a wide range of political and social views.

In truth, the Padlock Law is typical of legislation inspired by the concepts of fascism. It employs the infamous but obvious device, developed to the ultimate by Hitler and the Nazis, of crying "communism" to obscure the real aim, the suppression of all democratic freedom to criticize and oppose.

The padlocking of the U.J.P.O. building, an action against a racial minority group, is an outstanding example of this. The most elementary and traditionally established freedoms of speech, press, assembly and organization are being suppressed by the use of, or the mere threat to use, the Padlock Law. Owners of halls have become afraid to rent them for public meetings; private homes, offices and business establishments have been searched and padlocked; books and other personal property, such as typewriters, mimeograph machines, administrative records, have been seized by the police.

Canadians who cherish freedom cannot afford to remain silent about this dictatorial law for it is a menace to everyone's rights. Mr. Duplessis should be told that such laws do not meet with the approval of democratically minded Canadians and are not in keeping with the letter and spirit of the Universal Declaration of Human Rights adopted by the United Nations with the solemn endorsement of the Canadian delegates. The Civil Liberties Union urges all individuals and organizations to protest to Mr. Duplessis against the arbitrary padlocking of the building occupied by the United Jewish People's Order and to request him to have the padlock removed immediately.

Enclosed is a copy of a brief on the need for a Bill of Rights which was prepared by the Civil Liberties Union and presented to the Deputy Minister of Justice by a delegation from Montreal on January 18th. The C.L.U. would be pleased to have your opinions on this matter and any comments regarding the brief.