‘Little Useful Purpose Would be Served by Canada’: Ottawa’s View of the Tokyo War Crimes Trial

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Reluctant Participant

In August 1945, when the Big Four (France, the United Kingdom, the United States and the Soviet Union) signed the Agreement of London, to which was attached ‘The Charter of the International Military Tribunal’, commonly known as ‘The Nuremberg Charter’, all the nations with representatives on the United Nations War Crimes Commission (UNWCC) promptly adhered to this historic pact. With the exception of Canada. Vincent Massey, the high commissioner for Canada, started despatching messages to the Department of External Affairs, advising that Ottawa follow suit. The British government, too, repeatedly urged Canadian acceptance. Ottawa’s reaction to the accord, however, was lukewarm interest, scepticism, reluctance and caution. At that time, Canada did not even have any ‘acts or statutes allowing for the trial of war crimes suspects’. Though his department’s legal advisor, E.R. Hopkins, supported the ‘Jackson plan’, finding it one in keeping with customary international law, Secretary of State for External Affairs Louis St Laurent noted that ‘little useful purpose would be served by Canada adhering to this agreement and it is therefore very unlikely that adherence will come forward’. John E. Reed, another legal advisor to St Laurent (and later elected a member of the International Court of Justice), weighing the pros and the cons of abiding by the accord, concluded that, on the one hand, Canada would ‘protect our technical position’, but that, on the other, it would have to shoulder responsibility for all the matters that had been discussed and decided on without prior consultation with the Crown. Shortly before the Nuremberg trial began, the high commissioner’s office proposed that a Canadian judge be appointed as the alternate to

2 Library and Archives Canada (LAC), RG 25/vol. 3182/ File 4896-40, Memorandum to the High Commissioner, 14 December 1945.
the United Kingdom's member on the bench, but Reed was not at all interested in taking forward such a proposal. One of the consequences of not joining the Big Four, as Massey pointed out, would be Canada's ineligibility to send official observers to the Nuremberg trial. Eventually, a senior military officer did go to Nuremberg to observe the trial, but his visit was approved 'on understanding that he is going in strictly private capacity'. In the end, Canada did not ratify the agreement, and was never more than a reluctant and diffident participant in the Allied undertakings to determine in courts of law the guilt or innocence of the German architects of war and their minions. The only progress made during this period, thanks to the tireless efforts of Lieutenant Colonel Bruce Macdonald, was the introduction of the Canadian War Crimes Regulations to the House of Commons. This law was to become the nation's first 'war crimes apparatus'.

Several reasons can be advanced as to why there was so little enthusiasm for participation in this Allied post-war task. In part, Canada's reluctance emanated from a lingering 'timid Dominion' mentality – a self-perception that Canadians were too 'reticent to engage with the world' – and from a consciousness that an ocean separated it from the European theatre. And, in part, it was a reflection of the world view of William Lyon McKenzie King, the wartime prime minister, who saw as dubious the value of Canada's international commitments, fearing that embroilment in conflicts beyond its national boundaries might reduce its autonomy. An absence of reports of systematic mistreatment of Canadian POWs by the Germans – some repatriated former POWs even praised their treatment in German camps – might also have contributed to the government's minimal interest in European war crimes trials.

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3 LAC, RG 25/vol. 3182/ File 4896-40, Note for the Under Secretary of External Affairs, 29 August 1945; Letter to the High Commissioner, 11 September 1945; Letters from the High Commissioner, 4 September, 26 November 1945.
4 Brode, 'Bruce Macdonald', 276.
6 Brode, Casual Slaughters, p. 32; Globe and Mail, 11 January 1944: 'Mates free 15 Canadians in Ortona and Nazi captors become captives.'