

See also the blog at <https://legal-watchdog.com/f/supremacy-of-reality>.

This essay aims to make a compelling argument that we should improve the quality of the Canadian legal system, starting with our Constitution, particularly the preamble of the Charter of Rights and Freedoms.

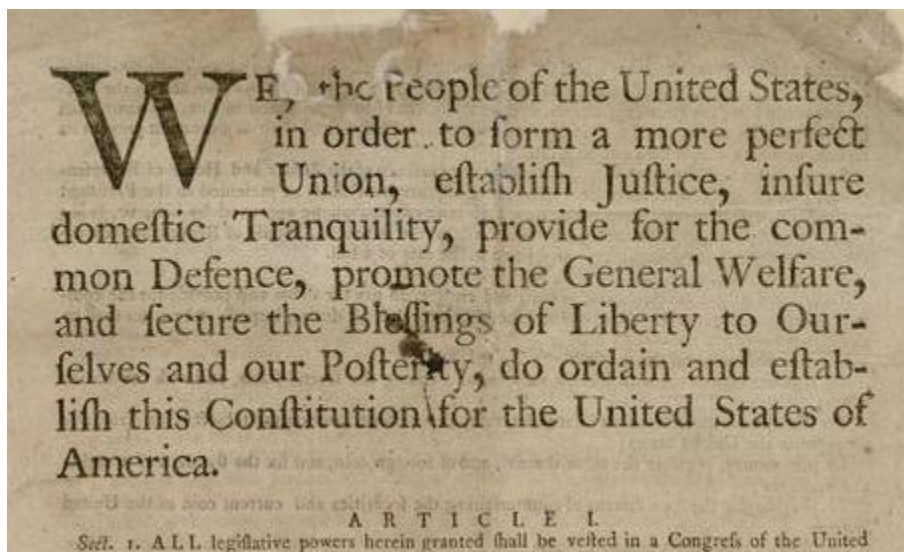
We might assume that, ideally, our laws are based on reality, on *objective* reality. In particular, for a legal archetype or framework as serious as the Canadian Constitution, we might assume it is strictly based on objective reality, but this is an invalid assumption.

The 'reality' of the Canadian Constitution is subjective and normative beliefs based on tradition, politics, and religion, lacking formal ethics, logic, and science.

One objective of this essay is also to convince you that the quality of writing and communication skills demonstrated in the Canadian Constitution and Charter is too low and that we should expect better from the people who pen such important documents.

## Preamble

The preamble to the US Constitution<sup>1</sup> is:



We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

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<sup>1</sup> [https://en.wikipedia.org/wiki/Preamble\\_to\\_the\\_United\\_States\\_Constitution](https://en.wikipedia.org/wiki/Preamble_to_the_United_States_Constitution)

Written in 1887, primarily by Gouverneur Morris, it is one of the world's most iconic statements of governance.

Notice how the words Order, Union, Justice, Tranquility, Welfare, Blessings, Liberty, and Posterity are all capitalized to highlight the values and ideals the founders propose for the new nation. In fact, not only does this look like the Mission, Vision, and Value statements of many successful enterprises, but it also reads like an inspiring manifesto. Indeed, it is a manifesto, albeit a short one. However, the last part, “do ordain and establish this Constitution for the United States of America,” is atypical of a manifesto. That’s a lot of purpose and meaning packed into a short statement. Notice how it is also written in the active voice.

*As an aside, I would like to point out how much this sounds like socialism instead of capitalism.*

Growing up in Canada, we are deluged with US media, movies, television, etc. We may be indoctrinated to believe these are the most iconic words or not. *Subjectively*, they are great words; great storytelling nonetheless.

From a cynical point of view, the USA, as we know it, does not at all reflect these ideals. While there are actors and agencies in the USA who reflect these great words, the US government does not look anything like the values and ideals upon which it was founded. It more closely resembles some capitalistic dystopia.

Since 1887, the US Government has failed to live up to the ideals of Order, Union, Justice, Tranquility, Welfare, Blessings, Liberty, and Posterity. As of 2023, it appears to be headed in the opposite direction. But then, how often do children accept the guidance of their elders?

Perhaps, as a whole, the country has given up on the extraordinary task of meeting such lofty standards, or there is a competing ideology that is the antithesis of these ideals, which is too successful in its goals and objectives. A bit of both is likely true. In our human fallibility, we often fail to follow our most cherished goals and objectives. But I digress...

Nonetheless, these are great words that not only citizens of the USA should be proud of, but all peoples of the world.

By contrast, the preamble to the Canadian Constitution<sup>2</sup> of 1867 reads

An Act for the Union of Canada, Nova Scotia, and New Brunswick, and the Government thereof; and for Purposes connected therewith (29th March 1867)

Whereas the Provinces of Canada, Nova Scotia, and New Brunswick have expressed their Desire to be federally united into One Dominion under the Crown of the United Kingdom of Great Britain and Ireland, with a Constitution similar in Principle to that of the United Kingdom:

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<sup>2</sup> <https://laws-lois.justice.gc.ca/eng/const/>

And whereas such a Union would conduce to the Welfare of the Provinces and promote the Interests of the British Empire:

And whereas on the Establishment of the Union by Authority of Parliament it is expedient, not only that the Constitution of the Legislative Authority in the Dominion be provided for, but also that the Nature of the Executive Government therein be declared:

And whereas it is expedient that Provision be made for the eventual Admission into the Union of other Parts of British North America:

*Subjectively*, this is not inspiring; it is not directed to posterity like the US Constitution. It reads more like a report to the Queen. It reads almost like begging for permission from the British Empire, and perhaps technically, that is really what it is. Notice also that it is written in a more passive voice.

There is nothing here to make me feel proud. Quite the contrary, I am ashamed to admit, as a Canadian, that this was a pivotal part of our history, a history of weak, cowardly bureaucrats; not of visionary leaders.

I do not believe that Canada needed a revolution such as the US, that we needed to revolt so profoundly, but the preamble to our constitution could have been written in a more active and inspiring voice; it could have been a stronger declaration of a newly founded nation. It should have been written to inspire Canadians and not to appease the British.



The US Declaration of Independence came before their Constitution:

IN CONGRESS, JULY 4, 1776.

The unanimous Declaration of the thirteen united States of America.

When in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to this separation. — We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. — That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, — That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. — Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by overthrowing the forms to which they are accustomed. — But when a long train of abuses and usurpations, pursuing invariably the same Object, evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security. — Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. — The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. — To prove this, let Facts be submitted to a candid world. — He has refused his Assent to Laws, the most wholesome and necessary for the public good. — He has forbidden his Governors to pass Laws of immediate and pressing importance, unless suspended in their operation, till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them. — He has refused to pass other Laws for the accommodation of large districts of People, unless those People would relinquish the right of Representation in the Legislature, a right inestimable to them and formidable to Tyrants only. — He has called together legislative Bodies at places unusual, uncomfortable, and distant from the seat of Government, for the sole purpose of fatiguing them into compliance with his measures. — He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the People. — He has refused for a long time, after such Dissolutions, to cause others to be elected; whereby the Legislative Powers, incapable of Annihilation, have returned to the People at large for their exercise; the State remaining in the mean time exposed to all the dangers of invasion from without, and convulsions within. — He has endeavored to prevent the Population of these States; for that purpose obstructing the Law for Naturalization of Strangers; refusing to pass Laws to encourage their emigration hither, and raising the conditions of new Appropriations of Lands. — He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary Powers. — He has made Judges dependent on his Will alone, for the tenure of their Offices, and the amount and payment of their salaries. — He has erected a multitude of New Offices, and sent hither swarms of Officers to harass our People, and eat out their substance. — He has kept among us, in times of peace, Standing Armies without the Consent of our Legislature. — He has affected to render the Military independent of and superior to the Civil power. — He has combined with others to subject us to a jurisdiction foreign to our Constitution, and unacknowledged by our Laws; giving his Assent to their Acts of pretended Legislation: — For quartering large bodies of armed troops among us; — For exercising them, by a mock Trial, upon Accusations, which they should commit on the Inhabitants of these Colonies: — For cutting off our Trade with all parts of the world: — For imposing Taxes on us without our Consent: — For depriving us in many cases, of the benefit of Trial by Jury: — For transporting us beyond Seas to be tried for pretended offences: — For abolishing the free System of English Laws in a neighboring Province, establishing therein an arbitrary government, and enlarging its Boundaries so as to extend it to one an exorbitant and fit instrument for introducing the same absolute rule into these Colonies: — For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments: — For suspending our own Legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever. — He has abdicated Government here, by declaring us out of his Protection and waging War against us. — He has plundered our Woods, seized our Coasts, burnt our Towns, and destroyed the lives of our People. — He is at this time transporting large Armies of foreign Mercenaries to complete the works of death, desolation and tyranny, already begun, with circumstances of Cruelty & perfidy scarcely paralleled in the most barbarous age, and totally unworthy the Head of a civilized nation. — He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the executioners of their friends and Brethren, to expose themselves to the perils of their Enemies, to hold their Swords against the breasts of their Fathers, to slay their Brethren, to desert their Mothers, to expose their Heads to the danger of their Neighbors, to expose their young Children to be sold as Slaves to the merciless Strangers, to become the execrable Agents of their Vices, to become the Pillagers of their Neighbors in the most barbarous terms. — Our repeated Petitions have been answered only by repeated injury. — A Prince, whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free People. — Nor have We been wanting in attention to our British brethren. — We have warned them from time to time of attempts by their Legislature to extend an unwarrantable Jurisdiction over us. — We have reminded them of the circumstances of our emigration and settlement here. — We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow those usurpations, which would inevitably interrupt our connections and correspondence. — They too have been deaf to the voice of justice and of concinnity. — We must, therefore, acquiesce in the necessity, which denounces our separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace, and in Conscience. — We, therefore, the Representatives of the united States of America, in General Congress assembled, appealing to the supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by the authority of the good People of these Colonies, solemnly publish and declare, That these United Colonies are, and of Right ought to be, Free and Independent States; that they are absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is, and ought to be, totally dissolved; and that as Free and Independent States, they have full Power to levy War, conclude Alliance, establish Commerce, and to do all other Acts and Things which Independent States may of right do. — And for the support of this Declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.

Boston Friends  
 Lyman Hall  
 Geo. Wallcut.

John Rogers  
 Joseph Brewster  
 John Benson

Samuel May  
 Rev. B. B.  
 Thos. Stone  
 Fred. Southwick

Wm. Morris  
 Benjamin Church  
 Rev. A. T. Franklin  
 John Norton  
 Geo. Loring

Wm. Briggs  
 Chas. Loring  
 Susan Loring  
 Lewis Morris

M. Wiggles  
 Levi Adams  
 John Adams  
 Nat. Westlake

Edward G. Ledge  
 Geo. Smith  
 Geo. Taylor  
 James Wilson  
 Geo. Thompson  
 Cassius Munn  
 William  
 Thos. Mearns

Rich. Jackson  
 Jos. Robinson  
 Nat. Chapman  
 John Hunt  
 Ann Clark

H. H. Higgins  
 William Ellery  
 Roger Sherman  
 John W. Huntington  
 Mrs. M. W. W. W.  
 Oliver W. W. W.  
 Wm. W. W. W.

W. J. Stone, 20, Wash.



Did Gouverneur Morris read the preamble to the Canadian Constitution and think to himself, 'How wimpy this sounds' and that he was determined to write something more inspiring? After all, the July 4, 1776, Declaration of Independence<sup>3</sup> sure sounded more inspiring, so he had greater inspiration to start with.

The preamble to the Declaration of Independence reads:

We hold these truths to be [self-evident](#), that [all men are created equal](#), that they are endowed by their [Creator](#) with certain [unalienable Rights](#), that among these are [Life, Liberty and the pursuit of Happiness](#).—That to secure these rights, Governments are instituted among Men, deriving their just powers from the [consent of the governed](#),—That whenever any Form of Government becomes destructive of these ends, it is the [Right of the People to alter or to abolish it](#), and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute [Despotism](#), it is their right, it is their duty, to [throw off such Government](#), and to provide new Guards for their future security.

Them is fighting words, and indeed, the War of Independence<sup>4</sup> was a historically famous fight. Yet, these words are not so much a glove across the cheek as a statement of grievance or a problem statement with an accompanying proposed solution. While it is assertive, it is also civil.

From Wikipedia 2023-11-05 :<sup>5</sup>

The terms “left” and “right” first appeared during the [French Revolution](#) of 1789 when members of the [National Assembly](#) divided into supporters of the [Ancien Regime](#) to the president's right and supporters of the revolution to his left. One deputy, the Baron de Gauville, explained: “We began to recognize each other: those who were loyal to religion and the king took up positions

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<sup>3</sup> [https://en.wikipedia.org/wiki/United\\_States\\_Declaration\\_of\\_Independence](https://en.wikipedia.org/wiki/United_States_Declaration_of_Independence)

<sup>4</sup> [https://en.wikipedia.org/wiki/American\\_Revolutionary\\_War](https://en.wikipedia.org/wiki/American_Revolutionary_War)

<sup>5</sup> [https://en.wikipedia.org/wiki/Left%E2%80%93right\\_political\\_spectrum](https://en.wikipedia.org/wiki/Left%E2%80%93right_political_spectrum)

to the right of the chair so as to avoid the shouts, oaths, and indecencies that enjoyed free rein in the opposing camp.”

*As an aside, subjectively, I believe the Declaration of Independence conforms to the role of a left-wing mission and, as we saw before, the preamble to the US Constitution, a socialist mission. I suggest that the USA was founded as a left-wing socialist republic, and given time and space, I could lay out objective arguments for this. The point is, it was written to serve the people, not to rule the people, by declaring how unsatisfactory it is to be ruled.*

Getting back to the Canadian Constitution, in 1982, the constitution was amended with the Charter of Rights and Freedoms.<sup>6</sup> The preamble reads

***Whereas Canada is founded upon principles that recognize the supremacy of God and the rule of law:***

Yes, that is all it says. It sounds like a mission statement, but it lacks a vision and values or any sense of a manifesto. At least it is written in the active voice. But unlike a mission statement, which defines a goal, it declares a conclusion, ***an objectively unsupportable conclusion***. It concludes, without justification or explanation:

1. The existence of God,
  - a. Where is the proof?
2. That God is supreme.
  - a. Why?

***There is no objective truth here.***

Is it not better to reason from objective truths and supportable conclusions in legal documents? In practice, lawyers often reason from unsupportable conclusions all the time, especially when there are few objective truths in evidence, but that is the topic of another essay. Let's postulate that *'in law, it is best to reason from objective truth, cogent arguments, and supportable conclusions.'*

Our preamble is not saying very much, more of a meme, but it is quite dangerous in its lack of context, its ambiguity and mystery.

1. ***Ambiguous*** in that, what is supreme?
  - a. God and law,
  - b. Or just God?
  - c. A core problem is that legal documents are usually written in human natural language such as English, which is too often ambiguous.

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<sup>6</sup> <https://laws-lois.justice.gc.ca/eng/const/page-12.html>

- i. There are ways to write law in other languages, such as Ergo,<sup>7</sup> a computer programming language that is less ambiguous but a topic for another time.
- 2. **Mysterious** in that, what or who is God?
  - a. Nowhere in the Canadian Constitution is God introduced to us or otherwise defined.
    - i. Neither the US Declaration of Independence nor the Constitution mentions 'God.' Meanwhile, the term 'creator' is used creatively.
    - ii. I had two creators: my mother and father.
  - b. From history and implied context, it is normal to assume that the Christian God, as defined in the Holy Bible, is recognized as supreme.
    - i. The Queen, the monarch, is declared the Defender of the Faith.
    - ii. So are we to assume that as the Defender of the Faith, the British Monarch is supreme because he or she is closer to God?
  - c. And how does this serve Canadian Jews and Muslims, as well as faiths not descendants of Abraham?
  - d. How does this serve atheists?
  - e. Generally, the preamble is not politically correct and fosters conflict, ambiguity, and mystery.

But why is this dangerous?

In legal documents, ambiguity and mystery are dangerous because

- 1. **Ambiguity** makes it difficult to reach supportable conclusions, reason about what is said, and make cogent logical arguments.
  - a. "**Ambiguity** occurs when a single word or phrase may be interpreted in two or more ways. As [law](#) frequently involves lengthy, complex texts, ambiguity is common. Thus, courts have evolved various doctrines for dealing with cases in which legal texts are ambiguous."<sup>8</sup>
  - b. For now, let's just postulate that
    - i. Ambiguity in law is bad.
    - ii. Minimizing or eliminating ambiguity is good.
- 2. **Mystery** also makes it difficult to reach conclusions, but in a more profound or general sense, whereas ambiguity is a more specific sense.
  - a. Some might argue that one of the law's goals is to resolve mysteries; to make judgements on reality, especially subjective reality.<sup>9</sup>
  - b. But, when the words of law are themselves a mystery, it makes it even harder to achieve the goal of judging reality.
  - c. The law should be designed to resolve mysteries, not create or promote them.
  - d. See also Occam's Razor.<sup>10</sup>

<sup>7</sup> <https://accordproject.org/projects/ergo/>

<sup>8</sup> [https://en.wikipedia.org/wiki/Ambiguity\\_\(law\)](https://en.wikipedia.org/wiki/Ambiguity_(law)) 2023-11-20

<sup>9</sup> <https://scholars.law.unlv.edu/cgi/viewcontent.cgi?article=1770&context=facpub>

<sup>10</sup> [https://en.wikipedia.org/wiki/Occam%27s\\_razor](https://en.wikipedia.org/wiki/Occam%27s_razor)

To reduce the ambiguity and mystery in the preamble, I suggest it be changed to

***Whereas Canada is founded upon principles that recognize the supremacy of reality and laws that serve the people:***

If we can change the words of the Canadian anthem from ***“in all thy son’s command”*** to ***“in all of us command,”*** then can we not change the Charter in such a minor way to fix the obvious defects?

On January 31, 2018, legislation was enacted to change the English lyrics to ensure gender parity. The verse “True patriot love in all thy sons command” was changed to “True patriot love in all of us command.” No change was required to the French version.<sup>11</sup>

While the official reason was to make the lyrics gender-neutral, I suggest that the word “son” originally referred to the Christian Son of God, so this change made it more secular. However, the phrase “God keep our land” still exists, so our anthem is not as secular as it could be.

Firstly, this new statement in the preamble more closely declares a supportable conclusion. It is logically easier to support the notion of ‘reality’ (objective reality) over the notion of ‘God’ (religious dogma). On the other hand, it does contradict the *historic* notion that Canada was founded on this principle because it surely was not; we have replaced one sin with another, replaced a greater sin with a lesser one.

It would be better still if the preamble read something like

***Whereas Canada’s law recognizes the supremacy of objective reality and laws that serve and protect the people:***

But now it gets harder to claim this is a simple change, like the simple changes to the national anthem, but overall is superior because:

- It is still a simple, brief meme that is easy to remember.
  - Same number of words as the original.
- It is semantically cleaner, of higher quality elocution; I believe.
- It introduces the relevance of logic, such as ‘objective reality,’ where historically “The life of the law has not been logic;”<sup>12</sup> where we need more logic in law.
- Canada was *founded* in a different time, a time of religious convictions, and lack of governing experience. We must replace immature thought with mature thought, experience, and logic.
- Many of those founding *principles* do not serve the modern and diverse society Canada has become and continues to become.

<sup>11</sup> <https://www.canada.ca/en/canadian-heritage/services/anthems-canada/history-o-canada.html>

<sup>12</sup> <https://www.britannica.com/biography/Oliver-Wendell-Holmes-Jr/The-Common-Law>



- Let's not be preoccupied with founding principles; not dwell on the past, but look to a better future. We should not ignore history, rather, we should improve upon it.
- Overall, this new preamble is even less a conclusion and more a 'legally positive'<sup>13</sup> assertion, a declaration in fact.
  - In the long run, legal positivism carries more weight in legal debates
  - What the 'law is' tends to carry more weight than what the 'law should be' (normative law or natural law)<sup>14</sup> in court.
  - Debate on whether positive or normative law is better is beyond the scope of this essay, but this essay recognizes that pragmatically, positive law tends to carry more weight.
- While there is still ambiguity, it does not matter as much if we mean 'supremacy of reality' or supremacy of 'reality and laws that serve and protect the people' because 'both 'objective reality' and 'laws that serve...' should be supreme, but objective reality comes first..
  - The concept of God, is not objective reality, and is a trigger word where many people cannot conceive of anything other than God being supreme, and will believe that God is supreme over law. The notion that God is supreme over law can never be demonstrated because it is not part of objective reality; it's not demonstrable, not supportable.
- It makes it clear that 'the rule of law' is not supreme; rather, the perspective that 'law serves and protects the people' is supreme.
  - Many people are already familiar with the meme 'to serve and protect', so this becomes a meme within a meme.
  - Too often, it is forgotten that our laws should protect us.
  - The notion that 'the rule of law' might be supreme borders on authoritarian<sup>15</sup> rule; note the word "rule," and 'authoritarian rule' should be abhorrent to Canadians.
- It better promotes secularism, better recognizes that Canada is becoming a more secular society, but more importantly, that our laws and governance should be secular.
  - It expunges the mystery of God.

This new preamble is not nearly as inspiring as the majestic preambles to the US Declaration of Independence and Constitution. But, it actually is more concise and to the point of what law should be as guiding principles.

All those inspiring and well-written words, like those of our American cousins to the South, could and should be expressed elsewhere in our Constitution. I would go so far as to suggest that after the Preamble, the Charter declares a Prologue<sup>16</sup> that builds on the Preamble as a preface to the body of the Charter.

<sup>13</sup> [https://en.wikipedia.org/wiki/Legal\\_positivism](https://en.wikipedia.org/wiki/Legal_positivism)

<sup>14</sup> [https://en.wikipedia.org/wiki/Natural\\_law](https://en.wikipedia.org/wiki/Natural_law)

<sup>15</sup> <https://en.wikipedia.org/wiki/Authoritarianism>

<sup>16</sup> <https://wikidiff.com/preamble/prologue>

From WikiDiff<sup>17</sup> 2023-11-10

As nouns the difference between prologue and preamble is that a prologue is a speech or section used as an introduction, especially to a play or novel while preamble is a short preliminary statement or remark, especially an explanatory introduction to a formal document or statute.

There are many ways to disambiguate between preamble and prologue, but I find this one more suitable in this context.

- The preamble to the Canadian Constitution of 1867 is not a preamble. It's a rambling plea to the British Sovereign, a proposal.
- The preamble to the Charter of Rights and Freedoms is a preamble.
- The preamble to the US Declaration of Independence is more of a prologue.
- The preamble to the US Constitution is more of a preamble and doubles as mission, vision, values, and manifesto. It is extraordinarily well-conceived and written.
- The Canadian Constitution and Charter are deficient in omitting these kinds of inspiring thoughts and purposes.
- On the other hand, the US Declaration of Independence and the Constitution are deficient regarding the importance of reality.

In addition to changes to the preamble to the Charter, I suggest that the Canadian Constitution also needs a prologue that builds upon the preamble and gives the kind of inspiration, meaning, and purpose of the US Declaration of Independence and Constitution but specific to Canadians.

Fundamentally, the Canadian Constitution and Charter are low-quality documents, and as a civil society, we should expect more from our defining documents. We should expect better leadership with higher competence in communication and vision.

## Prologue

What should go in the prologue to the Canadian Charter?

1. Expand on ideas that may not be clear in the preamble.
  - a. Clarify that while 'objective reality' is supreme, normative and subjective reality is also supreme over the supernatural, pseudo-science, popularism, etc.
  - b. Clarify how and why the law and the sovereign serve and protect the people. The law was made for Canadians; Canadians were not made for the law.
2. Introduce Mission, Vision, and Values.
3. Introduce an inspiring Manifesto.
4. Set out the core principles that Canadian law and jurisprudence must follow.
5. Define quality and how there must be a quality improvement process regarding law and jurisprudence.

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<sup>17</sup> <https://wikidiff.com/preamble/prologue>

- a. In particular, the quality of legal documents, especially constitutional ones, must improve.
- 6. The Constitution must clarify and stress that the law's paramount role is to serve and protect the people. Too often, this concept seems to be missing from our legal system.

From Canada's Department of Justice website<sup>18</sup>

The Department of Justice has the mandate to support the dual roles of the Minister of Justice and the Attorney General of Canada. The Department also works to ensure the federal government is supported by high-quality legal services, and the justice system is fair, relevant, accessible, and reflective of Canadian values.

First, this is terribly written, but it does state some aspirations; from one perspective, it is an aspirational message, the kind of message we should find in the prologue. Here, we can see words like "high-quality," "fair," "relevant," "accessible," and "Canadian values." These are similar to the key values of the US Preamble to the Constitution.

From another perspective, my book, "Presumed Guilty, an Indictment of Canada's Legal System,"<sup>19</sup> opens with a scathing critical and cynical analysis of the Department of Justice website and proposes how to fix some of its problems.

The point is that important statements of intent, values, quality, fairness, relevance, etc., should not be relegated to the Department of Justice website but should be uplifted into the constitution itself.

## Why is Reality Supreme?

Reality<sup>20</sup> is what we know, what we understand, and what we can generally demonstrate to be objectively true.

**Reality** is the sum or aggregate of all that is real or existent within the [universe](#), as opposed to that which is only [imaginary](#), nonexistent or nonactual. The term is also used to refer to the ontological status of things, indicating their [existence](#). In [physical](#) terms, reality is the totality of a system, known and unknown.

Philosophical questions about the nature of reality or existence or being are considered under the [rubric](#) of [ontology](#), which is a major branch of

<sup>18</sup> <https://www.justice.gc.ca/eng/>

<sup>19</sup> To be published...

<sup>20</sup> <https://en.wikipedia.org/wiki/Reality>

[metaphysics](#) in the Western philosophical tradition. Ontological questions also feature in diverse branches of [philosophy](#), including the [philosophy of science](#), [of religion](#), [of mathematics](#), and [philosophical logic](#). These include questions about whether only physical objects are real (i.e., [physicalism](#)), whether reality is fundamentally immaterial (e.g. [idealism](#)), whether hypothetical unobservable entities posited by scientific theories exist, whether a ‘[God](#)’ exists, whether numbers and other [abstract objects](#) exist, and whether [possible worlds](#) exist. [Epistemology](#) is concerned with what can be [known](#) or inferred as [likely](#) and how, whereby in the modern world emphasis is put on [reason](#), [empirical evidence](#) and [science](#) as sources and methods to determine or investigate reality.

— Wikipedia 2023-11-01

In contrast to God, who or what is God; can the existence of God<sup>21</sup> ever be demonstrated?

Basically, God is a mystery, whereas Reality is less so.

Truly, reality is often a mystery, but we have the tools of philosophy, logic, mathematics, and science to help us understand reality, demonstrate what is real and what is not, and fundamentally reach better, higher-quality conclusions. So far as we know, logic, mathematics, and science have not demonstrated that God is real. At best, arguments attempting to conclude God is real and that God exists are non sequitur.<sup>22</sup> Consequently, they are not cogent arguments.

## Why Should Law Serve and Protect?

Historically, law has served the sovereign, the king, the ruler, etc. Often, the law serves whatever despot, dictator, or tyrant holds power who defines the law. Traditionally, the law served and protected the sovereign.

The Magna Carta was monumental in constraining the sovereign power of the King.

The US Declaration of Independence and Constitution built on the Magna Carta further constraining the sovereign power of government. Subsequent modern democracies have followed this path. The Canadian Constitution and Charter are sadly of much lower quality than the US documents, even though the US documents came first. Canadian leadership could have known better but chose not to.

<sup>21</sup> <https://en.wikipedia.org/wiki/God>

<sup>22</sup> [https://en.wikipedia.org/wiki/Formal\\_fallacy](https://en.wikipedia.org/wiki/Formal_fallacy)



History demonstrates that laws that serve and protect the sovereign tend to result in dystopia, while laws that serve the people attempt to find utopia. While it is possible that a benevolent ruler can rule utopia, history demonstrates this is rarely the case.

It is useful to remember that in all societies, there are people and agencies whose ideology is to exploit others, and being in control of the law gives them enormous leverage in their purpose. It is useful to recognize this in law, and to some degree, the preamble to the US Declaration of Independence does remind us of this historical reality.

Perhaps the Canadian Constitution and Charter do not address this because no one wanted to offend the Queen, the Defender of the Faith. It has been suggested that Canadians are some of the most polite people on earth...

## Serve

The law should be in service to the people; where not, this should be challenged and remedied.

One of my pet peeves is the Sovereign Immunity Doctrine, which does not serve the people, it only serves the sovereign, to protect the sovereign from deeds of corruption, malfeasances, and other bad acts.

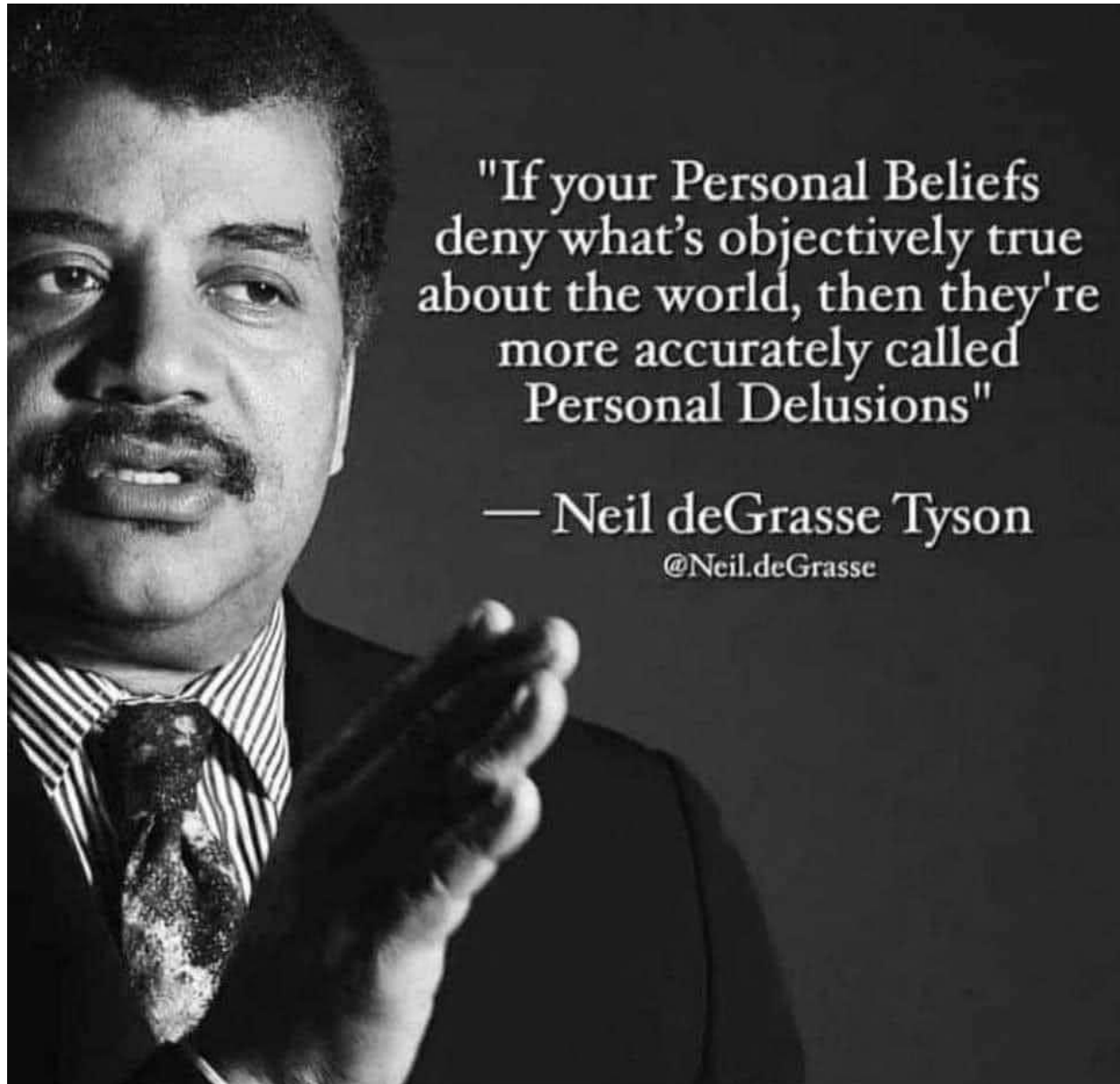
## Protect

An important aspect of service is protecting the people, in particular, protecting the people from the sovereign, and in many ways, the Charter of Rights and Freedoms attempts to achieve this.

But the law should clarify that we need protection from corruption, corrupt politicians, government officers, and special interests, especially where such agency attempts to corrupt the law itself.

In particular, the law should protect itself from the irrational influences of religion, such as declaring “the supremacy of God” in a constitutional document.

## Personal Delusions



This is a significant conclusion, so let's break it down to understand it better.

It is a conclusion because it is an if-then statement. If one thing is true, then this implies something else is true. This is also called deductive reasoning or deductive logic, or, in terms of a categorical syllogism, it can be stated:

- ∀ Beliefs that deny objective truth  $\Rightarrow$  delusional beliefs; (*analytic a priori proposition*)
- ∃ Your belief that denies objective truth; (*analytic a priori proposition*)
- ∴ Your belief is delusional. (*modus ponens*)

As I will demonstrate later, I believe this is a supportable conclusion. Also, subjectively, knowing who Neil deGrasse Tyson is, while I trust his reasoning, it is fair to try to know this objectively as well. However, the notion that one definition of 'delusion' is 'denying objective truth' is normative reality and not subjective reality, in that most psychologists define it so.

The reason for all this philosophical logic razzle-dazzle is to illustrate the difference between logical reasoning and legal reasoning, because too often "The life of law has not been logic;" and we are better served by law based on logical reasoning. Requiring cogent logical reasoning to law results in higher-quality law.

## Truth

What do we mean by 'objectively true?'<sup>23</sup>

In any situation, there can be as many descriptions of an event as there are people who experience it. The Four Truths, as a model, helps you understand such a phenomenon because it describes four ways people see their own truth in the world.

- **Objective Truth** is what exists and can be proved in this physicality. (The sun moves across the sky each day.)
- **Normative Truth** is what we, as a group, agree is true. (English speakers agreed to use the word day to name that time when the sky is lit by the sun.)
- **Subjective Truth** is how the individual sees or experiences the world. (Today is a good day for me.)
- **Complex Truth** recognizes the validity of all those truths and allows you to focus on the one [that] is most useful at any given time. (The sun is up; the day is bright. Today is a good day for MOM, so let's take advantage of that and ask for ice cream for dinner.)

In this context, I want to focus on 'Objective Truth,' what is objective truth, where anything else is not objective truth. In most cases, the distinction is between objective and subjective truth.

From Wikipedia<sup>24</sup> 2023-11-05 :

The distinction between **subjectivity** and **objectivity** is a basic idea of [philosophy](#), particularly [epistemology](#) and [metaphysics](#). It is often related to

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<sup>23</sup> <https://www.hsdinstitute.org/resources/four-truths.html>

<sup>24</sup> [https://en.wikipedia.org/wiki/Subjectivity\\_and\\_objectivity\\_\(philosophy\)](https://en.wikipedia.org/wiki/Subjectivity_and_objectivity_(philosophy))

discussions of [consciousness](#), [agency](#), [personhood](#), [philosophy of mind](#), [philosophy of language](#), [reality](#), [truth](#), and [communication](#) (for example in [narrative communication](#) and [journalism](#)).

- Something is **subjective** if it is dependent on a [mind](#) ([biases](#), [perception](#), [emotions](#), [opinions](#), [imagination](#), or [conscious experience](#)). If a claim is true exclusively when considering the claim from the viewpoint of a sentient being, it is subjectively true. For example, one person may consider the weather to be pleasantly warm, and another person may consider the same weather to be too hot; both views are subjective. The word *subjectivity* comes from [subject](#) in a philosophical sense, meaning an individual who possesses unique conscious experiences, such as perspectives, feelings, beliefs, and desires, or who (consciously) acts upon or wields power over some other entity (an [object](#)).
- Something is **objective** if it can be confirmed independent of a mind. If a claim is true even when considering it outside the viewpoint of a sentient being (how ?), then it is labelled objectively true. [Scientific objectivity](#) is practicing science while intentionally reducing [partiality](#), biases, or external influences. Moral objectivity is the concept of moral or ethical codes being compared to one another through a set of universal facts or a universal perspective and not through differing conflicting perspectives. [Journalistic objectivity](#) is the reporting of facts and news with minimal personal bias or in an impartial or politically neutral manner.

When Neil deGrasse Tyson says to “deny what’s objectively true,” he does not mention subjective or any other kind of truth. He is strictly focused on denial, denial of objective truth.

## Delusion

From Wikipedia 2023-11-05 :<sup>25</sup>

A **delusion** is a false fixed belief that is not amenable to change in light of conflicting evidence. As a pathology, it is distinct from a belief based on false or incomplete information, [confabulation](#), [dogma](#), [illusion](#),

<sup>25</sup> <https://en.wikipedia.org/wiki/Delusion>



[hallucination](#), or some other misleading effects of [perception](#), as individuals with those beliefs *are* able to change or readjust their beliefs upon reviewing the evidence. However:

“The distinction between a delusion and a strongly held idea is sometimes difficult to make and depends in part on the degree of conviction with which the belief is held despite clear or reasonable contradictory evidence regarding its veracity.”

Delusions have been found to occur in the context of many pathological states (both general physical and mental) and are of particular diagnostic importance in [psychotic](#) disorders, including [schizophrenia](#), [paraphrenia](#), [manic](#) episodes of [bipolar disorder](#), and [psychotic depression](#).

The key definition here is “A delusion is a false fixed belief that is not amenable to change in light of conflicting evidence,” where the key phrase is “conflicting evidence.” To deny conflicting objective evidence is delusional; to deny objective truth is therefore delusional.

I would point out that to deny conflicting subjective evidence is not sufficient to declare someone as delusional, but in some cases, to deny normative truth could be sufficient. For example, if someone, could not accept or agree that “English speakers agreed to use the word day to name that time when the sky is lit by the sun.”

## Is the Preamble Delusional?

Revisiting

***Whereas Canada is founded upon principles that recognize the supremacy of God and the rule of law:***

Is it fair to judge the preamble as delusional?

Strictly, no, because there is no real evidence that God does not exist. Indeed, the history of religion is such that by design, it has evolved to reinforce its unprovability and undeniability; it can neither be proven nor disproven. More technically, we use the words unverifiable and unfalsifiable. In the context of science, if a conjecture or hypothesis is unverifiable and unfalsifiable, then it is not science.

The undeniability/infalibility of religion, of God, is what makes it so powerfully enduring, where the proponents do not care that it is also unprovable/unverifiable, infact they prefer that it is unprovable/unverifiable as this gives them their perceived power over others.

Despite efforts by many faithful to prove the existence of God, none are objectively true either.

This classifies religion and the existence of God as ‘dogma.’

From Wikipedia 2023-11-05 :<sup>26</sup>

**Dogma**, in its broadest sense, is any belief held unquestioningly and with undefended certainty. It may be in the form of an official system of [principles](#) or [doctrines](#) of a [religion](#), such as [Judaism](#), [Roman Catholicism](#), or [Protestantism](#), as well as the [positions](#) of a philosopher or of a [philosophical school](#), such as [Stoicism](#).

It may also be found in political belief systems such as [fascism](#), [progressivism](#), [liberalism](#), and [conservatism](#).

In the [pejorative](#) sense, dogma refers to enforced decisions, such as those of aggressive political interests or authorities. More generally, it is applied to some strong belief that its adherents are not willing to discuss rationally. This attitude is named as a dogmatic one, or dogmatism, and is often used to refer to matters related to religion. However, it is not limited to theistic attitudes alone and is often used with respect to political or philosophical dogmas.

Strictly speaking, if your beliefs are based on dogma, pathologically, it does not necessarily mean you are delusional. It does not mean that you are not delusional, either.

- Belief that the earth is flat is delusional.
- Belief in God is dogma.

However, let's not let religion off the hook yet because, historically, many of the claims of religion have been objectively disproven. For example, the Earth is not the centre of the universe or even the centre of the solar system. See also Copernicus,<sup>27</sup> Galileo,<sup>28</sup> and Vatican admits Galileo was right.<sup>29</sup>

So, when presented with increasingly stronger evidence the earth was not the centre of the solar system, many prior Church beliefs crossed the Rubicon<sup>30</sup> from dogma to delusion, crossed from personal delusions to institutional delusions, and thus became a vector for the spread of delusion, the disease of delusion. Ultimately, however, most in the church ultimately accepted that the earth was not the centre of the solar system.

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<sup>26</sup> <https://en.wikipedia.org/wiki/Dogma>

<sup>27</sup> [https://en.wikipedia.org/wiki/Nicolaus\\_Copernicus](https://en.wikipedia.org/wiki/Nicolaus_Copernicus)

<sup>28</sup> [https://en.wikipedia.org/wiki/Galileo\\_Galilei](https://en.wikipedia.org/wiki/Galileo_Galilei)

<sup>29</sup> <https://www.newscientist.com/article/mg13618460-600-vatican-admits-galileo-was-right/>

<sup>30</sup> [https://en.wikipedia.org/wiki/Crossing\\_the\\_Rubicon](https://en.wikipedia.org/wiki/Crossing_the_Rubicon)

While practically no one suffers from the delusion that the Earth is the centre of the solar system and universe, myriad people cannot and will not accept the evidence of the Theory of Evolution, where such delusion is based on dogma but is accurately described as delusion per this discussion, where technically this becomes a mass delusion. This problematic condition persists because it is easier to demonstrate that the Earth is round and orbits the sun than the validity of a complex biological process such as evolution, which *seems* to contradict entropy. While I may consider people who refute the theory of evolution as delusional, the normative truth is that most clinicians would not consider these people delusional. My consideration is cynical, and not clinical, therefore I am not delusional.

At this point, I would like to conclude that our preamble, while not strictly delusional, is very much dogmatic, and there are still strong arguments that it may even be delusional.

The main problem is that our preamble is, at a minimum, controversial. It skates too closely to thin ice, to the domain of dogma and, consequently, delusion. The main solution is to make it less controversial by replacing the word 'God' with 'Reality.'

While making it less controversial, it will become more subjectively controversial for some. For example, those who believe in the supremacy of God may subjectively find the 'supremacy of reality' to be blasphemous.

Science often contradicts and undermines the dogmatic principles of religion, consequently, science is often the target of hate, ridicule, and denial by religious followers. Why would we want to invite this kind of dogma, denial, and delusion into our constitutional documents? Our constitution does not have to attack religion, but it should not promote it. Already, the Charter of Rights and Freedoms protects religion, and a valid question is, should it? But that is a topic for another time.

I would like to draw the conclusion that, generally, a good way to take controversy out of the law is to take certain dogma and possible delusion out of the law.

## Subjective Truth

What is the evidence that Canada is founded upon principles that recognize the supremacy of God?

The idea that Canada is founded upon principles that recognize the supremacy of God is rooted in the country's historical and constitutional framework. Here are some key pieces of evidence that support this notion:

1. Preamble to the Canadian Charter of Rights and Freedoms: The preamble of the Canadian Charter of Rights and Freedoms, which is part of Canada's Constitution Act, 1982, begins with the phrase "Whereas Canada is founded upon principles that recognize the

supremacy of God.” This statement reflects the belief that the country’s legal and political principles are rooted in a recognition of a higher moral authority.

2. Historical Roots: Canada has deep historical ties to European colonization, with many of its founding settlers being of Christian faith. The influence of Christian values and traditions can be seen in various aspects of Canadian culture, institutions, and legal systems.
3. Monarch as Head of State and Defender of the Faith: The Canadian monarch, who is also the monarch of the United Kingdom, holds the title “Defender of the Faith.” This title historically signifies the monarch’s role as the protector of the Christian faith. While Canada is a secular country with religious freedom, this historical connection to the monarchy acknowledges the role of religion in the nation’s history.
4. Oaths of Office: Various oaths of office in Canada, including those for elected officials and judges, often include references to God. For example, members of the Parliament of Canada, including the Prime Minister and Cabinet Ministers, typically take an oath that includes the phrase “So help me God.”
5. Use of Religious Symbols: Religious symbols and references are present in various national symbols and ceremonies, such as the use of the Christian cross in the design of the flag of Quebec or the presence of religious imagery in some official ceremonies and events.

It's important to note that while Canada’s historical and constitutional framework recognizes the influence of religious principles, the country is also committed to the principle of religious freedom and the separation of church and state. Canada is a diverse and multicultural society, and its laws and policies are designed to protect the rights and freedoms of individuals from various religious and non-religious backgrounds. The recognition of the supremacy of God does not imply the imposition of a specific religious doctrine on its citizens but rather acknowledges the historical and cultural context in which Canada was founded.

— chat.openai.com 2023-11-06



Contrary to my prior claim that the preamble to the Charter is unsupportable, according to Chat GPT, the preamble's conclusion is supportable regarding tradition, but only by normative or subjective truths, history and tradition, with no logic or science. But, my claim was that "the preamble is an objectively unsupportable conclusion." Chat GPT offers no objective truth for us to reason about.

*As an aside, a common burden the law must bear is reaching conclusions when there is little or no objective truth or objective evidence to reason about, such as the classic he-said / she-said mystery.*

Indeed, Chat GPT offers nothing to support the notion that "the country is also committed to the principle of religious freedom and the separation of church and state." Then again, that was not asked for in the prompt, but it was nice of Chat GPT to offer further thoughts on the matter.

Where I strongly disagree with Chat GPT is "The recognition of the supremacy of God does not imply the imposition of a specific religious doctrine on its citizens but rather acknowledges the historical and cultural context in which Canada was founded." As an exercise for the reader, I suggest searching the internet for "politicians argue that Canada is a Christian country." My concern is that the way the preamble is worded is an invitation for such subjective and perhaps dogmatic beliefs to argue that 'The recognition of the supremacy of God **does** imply the imposition of a specific religious doctrine on its citizens.'

*The more the law is distracted by dogmatic and subjective beliefs, the more the law is forced to ignore objective reality and reasoning.*

Let's adopt the principle that objective truth and reasoning are always a higher priority than normative or subjective truth and reasoning in law. For the most part, the law does operate this way; for example, iconically, "the smoking gun" evidence is preferred over other forms of evidence. But, unless we are clear in law, in the legal codex, that objective reality is preferred over subjective reality, some people will always attempt to put dogmatic or subjective beliefs ahead of objective ones.

Consequently, when I propose

***Whereas Canada's law recognizes the supremacy of objective reality and laws that serve and protect the people:***

I have removed the controversial notion that "Whereas Canada is founded upon principles..." While this notion is normatively and subjectively true, it is not objectively true and only serves to invite and perpetuate dogmatic conflict. Therefore, removing the invitation to conflict from the preamble is better.

## Absurd Reasoning

Given the preamble recognizes “the supremacy of God,” this leads to absurd reasoning.

Let’s say, we appeal to the Supreme Court of Canada, and they rule against us. Then according to the preamble, we can appeal to appeal to God, because God must be supreme over even the Supreme Court of Canada.

Pragmatically, appealing to God is about as useful as when people say, “Our thoughts and prayers are with the victims” after a mass shooting or some other disaster. And, what exactly is the official process for appealing to God? Our constitution and laws seem to be negligent in these matters.

In 1949, Parliament passed an amendment to the Supreme Court Act which abolished all appeals, making the Court truly the Supreme Court.<sup>31</sup>

See also Supreme Court Act (R.S.C., 1985, c. S-26)<sup>32</sup>

But, the Charter was enacted in 1982, after the Supreme Court Act, therefore

1. It overrides the precedence of the act, and
2. It is an amendment of the constitution, overriding the act.

If my reasoning sounds increasingly absurd, it follows from the preamble, because the preamble is absurd. The solution is to write our constitution without absurd statements.

## Exploiting the Absurd

One might argue that the “supremacy of God” clause in the preamble is harmless; for example, from *R. v. Sharpe*, we have

[79] But I know of no case on the *Charter* in which any court of this country has relied on the words Mr. Staley invokes. They have become a dead letter and while I might have wished the contrary, this Court has no authority to breathe life into them for the purpose of interpreting the various provisions of the *Charter*.<sup>33</sup>

The Supreme Court of Canada observes, “They have become a dead letter and while I might have wished the contrary, this Court has no authority to breathe life into them for the purpose of interpreting the various provisions of the Charter.” So, why should we care?

<sup>31</sup> [https://en.wikipedia.org/wiki/Court\\_system\\_of\\_Canada](https://en.wikipedia.org/wiki/Court_system_of_Canada) 2023-11-10

<sup>32</sup> <https://laws-lois.justice.gc.ca/eng/acts/S-26/index.html>

<sup>33</sup> *R. v. Sharpe*, 1999 BCCA 416 (CanLII), at para 79, <<https://canlii.ca/t/546z#par79>>, retrieved on 2023-11-13

1. Mr. Staley is trying to exploit the “supremacy of God” clause.
2. He is not alone, as other people have tried to exploit this, and it is safe to assume that more people will try to exploit it.
  - a. Worded the way it is, the preamble to the charter *invites* this kind of *exploitation*.
3. Every time someone tries to exploit this, and it is brought before the courts, we, the taxpayers, must pay the court costs to revisit this “dead letter” law.
  - a. This also distracts the courts from more serious matters to deal with than these absurd matters.
4. This clause is similar to a Zombie Law,<sup>34</sup> rooted in the Charter of Rights and Freedoms, making it a zombie that is harder to kill.
  - a. Zombie laws also waste the time and resources of the courts, funded by the taxpayers.
5. One might argue that it is a breach of trust of the government not to clean up the mess it leaves behind, which needlessly wastes taxpayer-funded resources.
  - a. We must trust our government to be competent; any time they are incompetent, this breaches our trust.
  - b. While my interpretation of Tort Law, Breach of Trust, Duty of Care, Duty to Act, etc., may be unconventional, it is not necessarily wrong.
  - c. Sadly, there is nothing in law to generally hold our government accountable because the government can always apply the Sovereign Immunity Doctrine.<sup>35</sup>
  - d. This is also absurd.

My point is, overall, something that may seem insignificant and innocuous to some people, who are only looking at the surface of the iceberg, needs to be better understood by looking beneath the surface regarding the law, the constitution, and the consequences of low-quality documentation.

## Crimes Against Reality

In Canada, Section 319<sup>36</sup> of the Criminal Code addresses **Public incitement of hatred**.

In a sense, this is an example of ‘Crimes Against Reality.’

### Defences

(3) No person shall be convicted of an offence under subsection (2)

- (a) if he establishes that the statements communicated were true;

<sup>34</sup> <https://blog.canlii.org/2018/10/29/zombie-laws>

<sup>35</sup> [https://en.wikipedia.org/wiki/Sovereign\\_immunity](https://en.wikipedia.org/wiki/Sovereign_immunity)

<sup>36</sup> <https://laws-lois.justice.gc.ca/eng/acts/c-46/section-319.html>

We can see the primary defence against this hate crime is telling the truth. But there is no defence if the truth, the reality, cannot be demonstrated. More formally, the prosecution has to prove beyond a reasonable doubt that the defendant was not telling the truth.

## Ernst Zündel

In the 80s, Ernst Zündel,<sup>37</sup> a famous holocaust denier, was prosecuted under Section 181 of the Criminal Code of Canada: Spreading False News. However, twice, the Supreme Court of Canada overruled the conviction on the basis that it was unconstitutional because of the Charter's Freedom of Expression.<sup>38</sup>

While I agree with the Charter's Freedom of Expression on principle, its defect lies in protecting Crimes Against Reality. If the preamble of the Charter was "Whereas Canada's law recognizes the supremacy of objective reality and laws that serve and protect the people," then there would be cause to limit Freedom of Expression, and there would be legitimate cause to challenge the Supreme Court's decision's regarding Section 181.

Section 181<sup>39</sup> was repealed<sup>40</sup> in 2019.

181 Every one who wilfully publishes a statement, tale or news that he knows is false and that causes or is likely to cause injury or mischief to a public interest is guilty of an indictable offence and liable to imprisonment for a term not exceeding two years.

What I cannot understand is that the Charter gives Parliament the power to overrule Freedom of Expression in some contexts. Was the Supreme Court not aware of this?

The law and society will always be under attack by delusional people, people who deny what is objectively true about reality. In most cases, these are nuisance beliefs and claims, but in some cases, they can be quite serious.

As we have seen, Section 319 of the criminal code offers some protection against this class of crimes, but in many ways, Canada and Canadian law are not sufficiently protected. Being enacted in 1985, I don't know why Zündel was not charged under this section. If so, would the Supreme Court have just as easily overturned a conviction there?

In reality, the Charter's Freedom of Expression protects the expression of delusional beliefs.

As of 2023, a far more dangerous threat to reality exists, far more dangerous than Ernst Zündel. Donald J. Trump, former president of the United States, has become an icon, a meme, and a demagogue, as the poster child for fraud. We have seen how hopelessly ineffective US laws are at protecting against these Crimes Against Reality.

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<sup>37</sup> [https://en.wikipedia.org/wiki/Ernst\\_Z%C3%BCndel](https://en.wikipedia.org/wiki/Ernst_Z%C3%BCndel)

<sup>38</sup> [https://en.wikipedia.org/wiki/Ernst\\_Z%C3%BCndel#Holocaust\\_denial\\_trials\\_in\\_the\\_1980s](https://en.wikipedia.org/wiki/Ernst_Z%C3%BCndel#Holocaust_denial_trials_in_the_1980s)

<sup>39</sup> <https://laws-lois.justice.gc.ca/eng/acts/c-46/section-181-20030101.html>

<sup>40</sup> <https://laws-lois.justice.gc.ca/eng/acts/c-46/section-181-20190621.html#wb-cont>



## Laws That Better Serve and Protect

We have an opportunity to take an absurd, low-quality statement that is the preamble to the Charter of Rights and Freedoms and transform it into something of higher quality that is quite profound.

Why is this profound?

While not a comprehensive search, I did my best with Google and Chat GPT to determine if any government constitutional documents discuss 'reality' in any philosophical or existential way. While the results are difficult to analyze, it is likely that no constitutional documents in any government state anything close to "Whereas Canada's law *recognizes the supremacy of objective reality* and laws that serve and protect the people:" Consequently, I recognize this is a very radical idea regarding government and governance; it is quite profound.

"laws that serve and protect the people" are less profound because the US Declaration of Independence and Constitution allude to that. However, it is profound to say explicitly that we should have "laws that serve and protect the people," especially in such a profound place as the preamble to the Charter.

This goes further than secularism and any separation of religion and governance, such as the First Amendment to the US Constitution; it states quite dramatically, at the highest level of governance, that objective reality is supreme in all law matters.

The effect of this is to say clearly, unambiguously, that our constitution and laws are **not** based on

- Conspiracy Theories
- Emotion
- Pseudo-Science
- Religion
- Supernatural
- etc.

It also means that reality trumps precedence in law. If the Supreme Court finds that precedence conflicts with objective reality, then precedence must defer. More importantly, in contrast to The Supreme Court Act of 1985, this new change implies that the Supreme Court is no longer supreme, that reality, that objective reality is now supreme.

***It should be possible to challenge any Supreme Court ruling that conflicts with objective reality.***

For example, if the Supreme Court of Canada ruled that the value of Pi was

$$\pi = \frac{4}{1.25} = 3.2$$

While this may seem laughable to some learned people, in 1897, the Indiana State Legislature indeed tried to redefine  $\pi$  by legislative fiat. See also Indiana Pi Bill<sup>41</sup>

Try to imagine a world where we were required to use the value of 3.2 for  $\pi$ . A lot of our technology just would not work, could not be made to work, could not even be invented. Try to imagine a country, such as Canada, where the value of  $\pi$  was defined differently than the rest of the world.

The logical argument I am trying to make here is:

1. Humans are fallible, and sometimes even stupid.
2. Supreme Court Justices are human.
3.  $\therefore$  Supreme Court Justices are fallible, and sometimes even stupid.

Despite the Supreme Court Act of 1985, which should not give too much power to the Supreme Court, there has to be a way to overrule even this court, especially when it contradicts objective reality.

If you believe the Supreme Court of Canada could never be so dangerous to Canada, take a look at the 2023 Supreme Court of the United States (SCOTUS), but that is another long cautionary tale.

Of course, changing the preamble this way will likely cause a lot of conflicts initially, requiring new and innovative legal arguments to resolve such conflict, but that is the price of progress, the price of reality. Initially, such conflict would cause problems, but in the long run, as the law, government, and Canadians resolved these conflicts, in the long run overall conflict would be reduced from what is possible now.

## How Does Reality Serve Us?

Take something as simple as the modern mobile phone. While some will argue that it does not serve us well, most people believe it does serve them well.

However, the math, science, engineering, and technology used to design and implement a modern phone is based on objective reality. Using only spells, witchcraft, and prayers would never result in anything like a modern mobile phone. Politics and religion in no way contribute to the quality and efficacy of the modern mobile phone.

I would argue that our laws do not serve us well because they are traditionally not based on objective reality or clear thinking but on fuzzy, wishful thinking, politics, and religion.

Reality serves us by not wasting time on issues that are not real and by not being distracted by ineffectual magical solutions. Reality offers real solutions to real problems.

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<sup>41</sup> [https://en.wikipedia.org/wiki/Indiana\\_Pi\\_Bill](https://en.wikipedia.org/wiki/Indiana_Pi_Bill)

## Fear of Reality

It is almost certain that people will object to this proposed change to the preamble; mostly, they will object to the notion of ‘the supremacy of objective reality’ to any constraint such as ‘objective reality is supreme.’

For many people, life is less scary living in a fantasy world. Comforting lies such as the supernatural make the world seem less scary. However, this makes them the natural prey of corrupt people.

For corrupt people who crave power and dominance, it is easier to obtain power and dominate other people when ‘reality’ is replaced by ‘fantasy,’ magical thinking, and propaganda, where being constrained by reality impedes power and dominance.

In the book, “CORRUPTIBLE: Who Gets Power and How It Changes Us”<sup>42</sup> by Brian Klaas, the concept of power is explored rationally and compellingly. One aim of the revised preamble is to constrain further corrupt people's ability to corrupt our laws, our government, and our civil society by restricting the strategies, tactics, logistics, and other practices of corrupt people who rely on distorting our perceptions of reality for their profits.

As a hypothesis, I suggest that the more corrupt someone is, the more they will object to being constrained by reality; objective reality.

Philosophically and psychologically, I ponder that corrupt people are, in their way, even more fearful than others, and their corruption is their way of dealing with that fear. They believe they will no longer face their fear when they have absolute power and dominance. However, they are wrong because even when they have absolute power and dominance, they will always fear losing it. The reality is that eventually, everyone loses power and dominance when they die, and often much sooner.

The bottom line is that by making the proposed changes to the preamble, our constitution and charter better protect us from corruption.

But not everyone fears reality, and those who embrace it tend to benefit from it. Our technical progress as a civilization is the benefit of embracing reality through logic, reason, mathematics, science, engineering, and technology. If only we could apply those tools to the law, governance, and civility.

***Ideally, we should aim to build a society that does not fear reality,  
but embraces it.***

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<sup>42</sup> <https://brianpklaas.com/corruptible>

## Assault on Reality

As of 2023, we live in a world with increasing assaults on reality.

- 'Alternate Facts'
- Anti-mask
- Anti-vax
- Conspiracy Theories
- Deep Fakes
- Defamation
- False Allegations
- Fraud
- Grift
- Pseudo Science
- Science Denial
- etc.

In order to better protect civil society from these assaults on reality, it serves society better to have 'the supremacy of objective reality' at the highest level of our legal codex, defining our highest legal principles and values.

Declaring 'the supremacy of God' in the preamble is the antithesis of valuing reality; it states we value the supernatural above all.

For people who routinely assault reality, 'the supremacy of God' is an invitation to assault reality via our constitution, via our Charter of Rights and Freedoms.

## Secularism

It is better for society if our laws declare Canada to be a secular society. That may be too extreme, as it may contradict the Charter's Freedom of Religion, but like many countries, as a service to Canadians, we should define the law and the governance to be secular.

**Secularism** is the principle of seeking to conduct human affairs based on [naturalistic](#) considerations, uninvolved with [religion](#).

Secularism is most commonly thought of as the [separation of religion from civil affairs and the state](#) and may be broadened to a similar position seeking to remove or to minimize the role of religion in any public sphere. The term "secularism" has a broad range of meanings, and in the most schematic, may encapsulate any stance that promotes the secular in any given context. It may connote [anti-clericalism](#), [atheism](#), [naturalism](#), [non-sectarianism](#), [neutrality](#) on topics of religion, or the complete removal of religious symbols from public institutions.

Secularism can be also defined as treating every religion equally and providing equal facility.

As a philosophy, secularism seeks to interpret life based on principles derived solely from the material world, without recourse to religion. It shifts the focus from religion towards "temporal" and material concerns.

There are distinct traditions of secularism in the West, like the French, Benelux-German, Turkish, and American models, and beyond, [as in India](#), where the emphasis is more on equality before law and state neutrality rather than blanket separation. The purposes and arguments in support of secularism vary widely, ranging from assertions that it is a crucial element of [modernization](#), or that religion and traditional values are backward and divisive, to the claim that it is the only guarantor of free religious exercise.

— Wikipedia<sup>43</sup> 2023-11-17

The Charter Freedom of Religion<sup>44</sup> states

2. Everyone has the following fundamental freedoms:

a. freedom of conscience and religion.

This contradicts Philosophical Secularism, but that discussion is outside the scope of this essay.

There are different forms of secularism, but the most commonly practiced form by governments is that while governments are secular, the governed, at their pleasure, are free to practice or ignore religion. This is an important condition for people to have 'freedom of conscience,' but while people are free to believe whatever they want, they should not have rights or privileges to impose their supernatural or unsupportable beliefs on others. However, this opens another can of worms that is also beyond the scope of this essay, but it is fair to say that law does impose collective beliefs on everyone, and it is safer if those beliefs are objective.

Canadian law and governance are mostly secular and becoming increasingly so, but that is a *practice*, not a well-defined *requirement*.

- The Supreme Court of Canada still has to deal with people using the 'Supremacy of God' argument.
  - R. v. Sharpe, 1999 BCCA 416 (CanLII)<sup>45</sup>
  - R. v. Big M Drug Mart Ltd., [1985] 1 S.C.R. 295<sup>46</sup>

<sup>43</sup> <https://en.wikipedia.org/wiki/Secularism>

<sup>44</sup> <https://www.justice.gc.ca/eng/csj-sjc/rfc-dlc/ccrf-ccd/checked/art2a.html> 2023-11-19

<sup>45</sup> <https://www.canlii.org/en/bc/bcca/doc/1999/1999bcca416/1999bcca416.html>

<sup>46</sup> <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/43/index.do>



- Municipalities still defy the Supreme Court ruling that prayer in government meetings is unlawful.<sup>47</sup>
  - For example, “Mouvement laïque québécois v. Saguenay (City), 2015 SCC 16, [2015] 2 S.C.R. 3”<sup>48</sup>

This lack of definition in law leads to ambiguity, where people opposed to secularism behave as though Canada is not secular, whereas some would prefer that Canada was a functional theocracy. This kind of ambiguity separates Canadians from one another... the way a hockey game without referees would create conflict among players as well as between spectators. If our constitution and laws are unclear on secularism, it only invites conflict.

Also, in our current situation, it is clear that even after the Supreme Court of Canada rules on something, those rulings are not always respected or observed. Imagine a hockey game where the players did not have to respect or observe the referees' rulings.

Stating clearly and unambiguously in our constitution that ‘reality is supreme’ corrects many problems here.

1. It removes the ambiguity of God, replacing the subjective supernatural with the objective natural in a way more consistent with secularism.
2. It implies that the law must be based on objective reality.
  - a. In logic, it is more effective to deal with objective facts rather than subjective or ‘magical’ facts.
3. It frees the court, including the Supreme Court, from repeatedly dealing with arguments based on the Supremacy of God, as they can just reject any such arguments under the requirements of the Constitution.
  - a. This includes any arguments based on any supernatural claims.
  - b. However, it does not free the courts from dealing with subjective reality because resolving disputes such as he-said/she-said is still important; it’s just more problematic.
4. It reduces dispute and conflict in our civil society as the rules of the game, like hockey, are clearer and simpler, which makes it easier for the courts, like hockey referees, to make clearer and simpler judgements that invite less dispute and conflict.
  - a. When the courts can use increased reasoning based on clearer objective reality, judgements are more sound.

## Abuse of Secularism

While I advocate secularism, I am troubled by the practice of invoking secularism as a legal means to discriminate against others, against their Freedom of Expression.

Quebec’s Bill 21<sup>49</sup> is highly controversial and acts to entrench discrimination into law.

<sup>47</sup> <https://www.google.com/search?client=firefox-b-d&q=canadian+municipalities+ignore+prayer+ruling>

<sup>48</sup> <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/15288/index.do>

<sup>49</sup> <https://ccla.org/major-cases-and-reports/bill-21/>

***Bill 21 is a horrendous law that violates human rights and harms people who are already marginalized.***

*This Quebec law bans people from working as teachers, lawyers, police officers, and more from wearing religious symbols such as crosses, hijabs, turbans and yarmulkes.*

*This not only affects people currently working in the public sector, but also the youth who aspire to those careers.*

The overwhelming lesson here is of corruption, that there are always people striving to corrupt the law to conform to their own corrupt ideologies, and that to serve Canadians, we must protect Canadians from this corrupt practice.

## Quality Serves Us Better

Quality matters, and in matters of law, constitution, and governance, quality matters a lot, or it should.

On Canada's Department of Justice website, it says, "The Department also works to ensure the federal government is supported by high-quality legal services,..." This is an admirable goal or aspiration, but to understand Canada's justice system, the facts are not evident. Ironically, in court, evidence matters, but in the Department of Justice, evidence does not matter, or it does not matter to support their claims with evidence.

As a Computer Scientist and Software Engineer with a great deal of experience in Quality Assurance,<sup>50</sup> I see none of the industry quality processes and practices I am familiar with that ensure any kind of quality in our Justice System.

However, in an industry where quality matters, one thing that quality assurance benefits from most is objective reality.

To be sure, there are *some* quality standards in Canadian Law. For example, the principle that someone is innocent until proven guilty is a powerful quality assurance check. However, this principle is only meaningful at the end of a very long, expensive, traumatic process, where the wisdom of a verdict comes long after the collective damage has been done.

*Ironically, on the Wikipedia page for [Quality Assurance](https://en.wikipedia.org/wiki/Quality_assurance), I cannot find the words "law," "legal," "justice," etc.*

An important principle I learned in Quality Assurance is that

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<sup>50</sup> [https://en.wikipedia.org/wiki/Quality\\_assurance](https://en.wikipedia.org/wiki/Quality_assurance)

***The further a defect is discovered from the source,  
it becomes exponentially more expensive to remedy.***

Consequently, defects, such as our current preamble to the Charter, trickle down through the rest of our laws and justice system, becoming more exponentially expensive to remedy. Also, it is fair to say that such defects accumulate exponentially more harm.

## Antithesis of Quality

When I investigate the law, top-down from the Sovereign Immunity Doctrine, I see a hierarchy of many loopholes in the law that minimize the accountability of law enforcement officers, including lawyers who are officers of the court. Quality will be ignored if people and agencies cannot be held accountable for quality in law and justice.

When the Department of Justice says, “The Department also works to ensure the federal government is supported by high-quality legal services...” this ignores the barriers to quality already set in law enforcement. If the Department of Justice cared about quality legal services, they would advocate for removing these barriers.

Indeed, our legal system makes it easier to hold commercial vendors accountable for the quality of their products and services; than for our legal community; than for our justice system.

When the people who write law, define and enact law, which makes them and their ilk less accountable to law, it invites corruption; therefore, we should expect and suspect corruption.

Tort Law has the notions of Trust, Breach of Trust, Duty of Care, and Duty to Act. Any lack of Duty of Care and Duty to Act invites a Breach of Trust, which invites harm. Actions by those who wield the law, which cause harm, neither serve nor protect the people. Tort Law is designed to address quality, but sadly, Tort Law does not apply enough in law, and there are ideologies that aim to diminish Tort Law further.

If the people cannot trust the law, it is of low quality, especially when it does not serve and protect.

It is said that “the fish rots from the head down,” to keep the law from rotting, we must start at the head of the law, our Constitution and Charter, our preamble.

## Conclusion

This essay proposes a new preamble to Canada's Charter of Rights and Freedoms.

***Whereas Canada's law recognizes the supremacy of objective reality and laws that serve and protect the people:***

This version corrects a number of defects in the original preamble, improving the overall quality of communication and direction and providing a better foundation for law in a secular civil society. It is also the same number of words, preserving the compactness of the original meme, so it is just as easy to remember.

### Original

- Logically unsupportable because of the contraction to objective reality or dismissal of objective reality.
- **Ambiguity** of which God, whose God, etc. The ambiguity of Who or what God is, whether God is supreme over the Supreme Court of Canada and why, etc.?
- Mysterious in invoking "God," a supernatural concept which is unverifiable and unfalsifiable.
- Undermines the trend of secularism in Canada as a diverse and evolving culture.
- More of a conclusion drawn from historical precedent, the **tradition** "Whereas Canada is founded upon principles..."
- Preserves the tradition of "The life of the law is not about logic."
- Invites unnecessary conflict per Supreme Court cases, which must hear arguments based on the "supremacy of God" despite dead letter law.

### Proposal

- Logically more supportable because of reliance, by definition, on objective reality.
- Logically less ambiguous because 'objective reality' is semantically less ambiguous than God.
- Less mysterious where there is no reliance on supernatural, pseudo-scientific, or illogical reasoning.
- Supports the growing trend of secularism.
- More of an assertion or declaration; not grounded in **tradition**, politics, and religion.
- Infers a new tradition that the law should be more about logic.
- While there may be initial conflict through a transition period, in the long run, any arguments denying objective reality are, by definition, delusional. The law should not entertain delusional reasoning.

- Implies that Canadians are subservient to the “rule of law,” which opens the door to authoritarian rule and ideologies.
- Makes clear that the role and practice of law is to “serve and protect” Canadians.

## Ambiguity

At the start of this essay, I rallied against the ambiguity in the preamble, largely because I got that notion from other people and had not really thought about it critically; it just seemed an easy perspective to agree with.

While I still agree that ambiguity is bad, especially in law, it was hard to rewrite the preamble without such ambiguity. Such are the limitations of human language, especially in memes. My every attempt to remove such ambiguity resulted in uglier prose, which I found distressing.

Removing ambiguity from legal documents is good medicine, but sometimes too much medicine is toxic, so in both the original and revised versions of the preamble, the ambiguity of one or two supreme ideas is not fundamentally problematic, but it is still useful to put one thing before the other.

However, introducing “the supremacy of God” into the preamble introduces the ambiguity of which God, what or who is God, does God exist, etc., and this ambiguity is easy to remove.

## Tradition

The original preamble relies on tradition; “Whereas Canada is founded upon principles...”

While this is true, it relies on the principle: that we should do X because we have done X before.

Growing up as a child, if I tried to use the argument, “I did it because Billy did it too.” My parents would respond, “If Billy jumped off a bridge, would you do that too?”

In a more profound sense, in the story “The Lottery,”<sup>51</sup> we are compelled to reconsider the wisdom of tradition and how well tradition serves us.

Subjectively, I feel that the invocation of tradition in the preamble indicates weak and irrelevant reasoning and justification. There is more than enough tradition, such as the tradition of precedence in law, that *it does not need to be said in the preamble*. The invocation of tradition in the preamble offers no value or utility but condemns us to repeating the mistakes of the past.

But when it comes to tradition, a tradition we need to escape is the tradition of low quality.

- Low quality in leadership is reflected by the low-quality communication of our leaders.
- Low quality in law is reflected by an expensive and overworked system that does not work efficiently or effectively to serve and protect Canadians.

<sup>51</sup> [https://en.wikipedia.org/wiki/The\\_Lottery](https://en.wikipedia.org/wiki/The_Lottery)



It is time to break with low-quality tradition, and start a new tradition; demanding and expecting higher quality from our legal system, starting with the preamble to the Charter.