



Philip Girard. *Bora Laskin: Bringing Law to Life.* Toronto: University of Toronto Press, 2005. xvi + 544 pp. \$55.00 (cloth), ISBN 978-0-8020-9044-7.

Reviewed by Matthew Baglole (Department of History, University of New Brunswick)

Published on H-Canada (June, 2007)

From Outsider to Insider: Bora Laskin and Canadian Legal Thought

Philip Girard has written the biography of Raphael “Bora” Laskin, Canada’s greatest—and perhaps only—judicial celebrity. That a comprehensive study of a Canadian at the center of many postwar legal, economic, and social developments did not yet exist seems reason enough to have written this book. Nevertheless, the author notes other compelling reasons, including the “current preoccupation with the Charter” (of Rights and Freedoms) and a number of recent charter-era judicial biographies (p. 5). As Girard argues, Laskin’s biography is an apt prequel to those of his Charter-era colleagues. Indeed, as many Canadians are aware, and as recent works by Ross Lambertson and others have shown, Canadian human rights evolved between the 1930s and present day.[1] Many figures working within and outside of Canada’s governments aided that evolution. Indeed, Bora Laskin was one of the many Canadians who worked through and beyond state institutions; in the process, he was integral in shaping a national rights discourse and its legal instruments. Laskin’s public life carried him from academic outsider to Chief Justice of the Supreme Court of Canada at a time when the modern Canadian state emerged.

Girard traces the intellectual and personal evolution of Bora Laskin from the time that his parents first emigrated from Russia. In so doing, Girard captures the hardship faced by Canadian Jews which serves as the perfect backdrop against which Laskin’s incredible success is juxtaposed. By focusing on Laskin’s early life, Girard is able to show the early emergence of personal traits which he then proceeds to detail in his account

of Laskin’s life. The picture that develops is one of an intelligent, slightly authoritarian, and intellectually aggressive figure whose particular vision of federally protected egalitarian rights was rooted in his Jewish identity and an ongoing suspicion of Canada’s provinces as parochial backwaters incapable of meeting the modern challenges of governance. As a Jew in Ontario, Laskin was an “outsider” and, although he did not like to dwell on the hardships he faced, he was keenly aware of his second-class treatment. Nevertheless, Laskin’s education followed that of many aspiring lawyers in Ontario in the 1930s but his working life was extraordinarily attuned to the economic and social developments in post-war Canada. Indeed, Laskin’s life reflects the racial and religious integration and equality to which he dedicated so much energy.

By wearing several hats, Laskin helped shape an egalitarian state at a time when equality was vital, but not necessarily guaranteed, for many Canadians. As the Canadian welfare state emerged, Laskin and others worked to ensure that the new roles assumed by Canadian governments were justifiable and equitable. As an academic and judge, Laskin’s constitutional expertise was brought to bear upon constitutional repatriation and shaped thinking around the constitutional division of powers. Similarly, as an academic, arbitrator, and judge, Laskin’s expertise influenced the public law surrounding labor arbitration in the years of mandatory collective bargaining and binding arbitration. Finally, as an academic and judge but mostly as a Jewish activist armed with legal expertise and inspired by the horrors of the Holo-

caust, Laskin contributed significantly to the postwar human rights alliance which drew together elements from Jewish communities, black communities, and the labor movement. His legal expertise was essential to the strategies adopted by Jewish rights activists in Ontario and the anti-discrimination/human rights legislation eventually adopted by Premier Leslie Frost. It is because of his latter interests that readers are introduced to personalities, organizations, and campaigns familiar to those interested in Canadian human rights. Indeed, it is refreshing to learn, in detail, about the role of an individual member of the human rights policy community. The broad studies of human rights activism now emerging are unable to provide this level of detail. As such, the medium of biography in this case serves as an important case study within the field of human rights historiography. In addition to its significant contributions to the literature on Canadian human rights, this biography will also interest labor historians as well as academics interested in the political evolution of the Canadian state. That legal scholars would be interested is a given.

Laskin's early reputation for impartiality served him well as he moved from academic to arbitrator to judge. It allowed the professor to move into semi-judicial bodies and ultimately rise to Chief Justice of the Supreme Court. Although many of his most influential and thoughtful decisions were dissents, Laskin left a legacy that belied the adversarial win-lose nature of courtroom proceedings. Long after the parties vacated the court, the reasoning behind decisions—not whether it was a majority or minority opinion—will influence subsequent legal thought. Indeed, throughout his career Laskin advocated a form of legal modernism that rejected legal precedent as *the* answer to legal disputes. Instead, he worked to popularize the view that law was a creative tool to be used for the liberation of human aspirations and brought to life in light of contemporary circumstances. In so doing, Laskin addressed a host of Canadian social, economic, and legal bugbears including the “labor question,” human rights, administrative law, and the separation of powers.

Just as Laskin's life reflects the socioeconomic integration of Jewish Canadians, so too does it reflect the integration of academics and activists and state institutions. Laskin's constitutional, labor, and egalitarian interests emerged during his tenure as a professor. Laskin's subsequent integration into the state, and his ability to more speak to the law therein, should interest the labor history and human rights crowd. Laskin, like many of his contemporaries and torchbearers since, blurred the line between activist and state-actor by working within

“the system.” Of course, as Girard argues and as government work presumes, Laskin and others working within Canadian political institutions viewed both the state and the law as a source of “good” even if its representatives did not always promote just policies. Through biography, Girard presents evidence that complicates the lines between state and non-state actors. Notwithstanding principled objectors, the question of whether to work within or beyond Canadian political institutions is often one of access. As did Laskin, Canadians activists between 1930 and 1982 accepted government positions believing that work within the political system was an effective means of reform. At a time when Canadian governments engineered and administered new programs addressing many aspects of the citizen's life, activism and government employment were the natural response for those hoping to influence policy debates. For labor historians and scholars interested in human rights, the integration of activists and the state as well as the formation of policy communities around areas of government action are but two intriguing aspects of Girard's work.

Having won the Floyd Chalmers Award in Ontario History there is little doubt that Girard has crafted a fine piece of history. Indeed, the work is well researched and written. Girard offers an authoritative account of Laskin's life and one that will not soon be rewritten. Most importantly, Girard offers an unflinching look at Laskin's strengths and weaknesses. For example, Laskin—like several of his activist contemporaries—held surprisingly conservative views regarding gender equality. Perhaps the only criticism to offer is one that applies to most biographies. At times, the seemingly endless cast of supporting characters—who may or may not permanently fall into the protagonist's orbit—becomes distracting. This is especially the case when writing the biography of a man who had his fingers in so many pies. Nevertheless, Girard has crafted a superb biography which offers a picture of an outsider who, on various fronts, contributed to the evolution of the modern Canadian state through the integration he advocated for all Canadians.

Note

[1]. See Ross Lambertson, *Repression and Resistance: Canadian Human Rights Activists* (Toronto: University of Toronto Press, 2005). See also Shirley Tillotson, “Human Rights Law as Prism: Women's Organizations, Unions, and Ontario's Female Employees Fair Remuneration Act, 1951,” *Canadian Historical Review* 72, no. 4 (December 1991): 532-557; Irving Abella, “Jews, Human Rights and the Making of a New Canada,” *Journal of the Canadian*

Historical Association 11(2000): 3-15; Carmela Partrias and Ruth A. Frager, "This is Our Country, These are Our Rights': Minorities and the Origins of Ontario's Human Rights Campaigns," *Canadian Historical Review* 82, no. 1 (March 2001): 1-35; Ross Lambertson, "The Dresden Story: Racism, Human Rights, and the Jewish Labour Committee of Canada," *Labour/Le Travail* 47 (Spring 2001): 43-82; James W. St. G. Walker, "The 'Jewish Phase' in the Movement for Racial Equality in Canada," *Canadian Ethnic Studies* 34, no. 1 (2002): 1-29; Christopher MacLennan, *Toward the Charter: Canadians and the Demand for a National Bill of Rights, 1929-1960* (Montreal and Kingston: McGill Queen's University Press, 2003); George Egerton, "Entering the Age of Human Rights: Religion, Politics, and Canadian Liberalism, 1945-1950," *Canadian Historical Review* 85, no. 3 (September 2004): 451-479; Ross Lambertson, "The Black, Brown, White, and Red Blues: The Beating of Clarence Clemons," *Canadian Historical Review* 85, no. 4 (December 2004): 755-776; and Judith Fingard and Janet Guildford, eds. *Mothers of the Municipality: Women, Work, and Social Policy* (Toronto: University of Toronto Press, 2005).

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Citation: Matthew Baglole. Review of Girard, Philip, *Bora Laskin: Bringing Law to Life*. H-Canada, H-Net Reviews. June, 2007.

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