

Hon. Mr. BOUFFARD: Even though we have obligations, external obligations, I am not sure that the federal government has power to enact any legislation in connection with those obligations. It is similar to the situation with respect to the labour legislation passed in 1938, which arose partly through obligations entered into. Bills were introduced and passed in the House of Commons and the Senate, which were declared to be unconstitutional by the Privy Council because we had no right to pass them.

Hon. Mr. GOUIN: I would say that it is a joint field of action, so to speak. There is no doubt some federal legislation might be passed on human rights which might jeopardize human freedoms and even the question of freedom of worship, as you say, might be imperilled by some federal legislation. Any legislative power at a given moment can encroach on human rights and fundamental freedoms.

Mr. MAYHEW: May I ask if the steering committee would have (a) as (b) and (b) as (a). In other words could we have the legal position considered first?

The CHAIRMAN: That point was given consideration by Senator Gouin and myself. I do not know whether we discussed it in the steering committee but it seemed to us this was the logical order. The question of what we could call the legal aspect does not come into the matter until we know what we are expected to do or what we are asked to do.

Mr. IRVINE: With regard to the question raised here by my friend, is it possible Canada, as a member of the United Nations, undertakes in respect to this question of fundamental human rights, matters which are vested in the provinces or any of them?

Is not Canada acting as a nation in these matters? If she is acting as one of a group of nine nations we had better know.

The CHAIRMAN: That is one question which we had better leave to the officials of the Department of Justice. As Senator Bouffard mentioned a situation arose in the 1930's when we undertook to enact certain legislations because we had signed certain agreements and it was held that we did not have the power to enact that legislation.

Mr. IRVINE: Would there not be some difference between this and the labour legislation because labour legislation is more or less defined as a provincial matter. Surely any matter of general human rights, as they are conceived in the United Nations Charter, would have different status than the matter of labour legislation.

The CHAIRMAN: Well, I know that you have in mind the clause in the British North America Act which says that property and civil rights within the province is within the exclusive jurisdiction of the province.

Mr. IRVINE: The very first thing to me seems to be that if we have no power there is no use being here.

The CHAIRMAN: Yes, that is quite right.

Hon. Mr. BOUFFARD: We ought to know where we are going first.

Mr. IRVINE: Our first meeting is the discussion of the international obligations which we have assumed.

The CHAIRMAN: Yes.

Mr. IRVINE: And the next meeting?

The CHAIRMAN: The next meeting will be on the same subject if we are successful in getting Mr. Humphrey to come.

Mr. IRVINE: And following that we will have the legal explanation?

The CHAIRMAN: Yes. The first is the definition of what we are going to decide and the second matter is how far we can go.