

Your Committee considers that the Declaration would be more effective if stated in a shorter, more concise form. As there is no assurance that any specific draft prepared by your Committee would be accepted by the United Nations, your Committee does not suggest any particular revision of the draft submitted but recommends that the Government, in presenting its views to the United Nations, have in mind the views of members of your Committee as reported in the record of proceedings and evidence.

With respect to part (c), your Committee invited written representations from groups and organizations which had expressed a desire to place their views before your Committee. Written submissions were made by:

- (a) Canadian Jewish Congress;
- (b) Congregations of Jehovah's Witnesses;
- (c) Civil Rights Union of Toronto;
- (d) Canadian Daily Newspapers Association;
- (e) Organizations representing the Chinese people of Canada;
- (f) Committee for a Bill of Rights, Toronto.

As a result of these representations your Committee gave consideration to the enactment of a bill of rights for Canada.

Although all the briefs submitted did not recommend a bill of rights for Canada, those which contained such recommendation favoured the enactment of a bill of rights by constitutional amendment rather than by a federal statute.

At the request of the Committee, the Deputy Minister of Justice was heard in relation to the effect of the enactment of a Bill of Rights as (1) a federal statute; (2) a constitutional amendment; and, in particular, to its effect on existing and prospective provincial and dominion legislation, the common law, the sovereignty of Parliament, and the prerogatives of the Crown.

Your Committee is of opinion that to attempt to enact a Bill of Rights for Canada as a federal statute would be unwise for the following among other reasons.

The power of the Dominion Parliament to enact a comprehensive bill of rights is disputed. This is indicated by the letters received in reply to an invitation addressed by the Committee to the Attorneys-General of the Provinces and to Deans of certain law schools to express their opinions with respect to the power of Parliament to enact a comprehensive Bill of Rights applicable to all of Canada.

Clarification of the extent of the Dominion's powers by reference of questions to the Supreme Court of Canada has been suggested, but these questions, in addition to presenting serious drafting difficulties, would certainly initiate a legal and constitutional controversy with the provinces which might be far-reaching.

Despite this fact, the submission of such questions might be desirable if the answers could be taken as settling the law, and if a federal statute based on such answers effected a constitutional guarantee of human rights and fundamental freedoms. The fact is, however, that the answers would not be the equivalent in binding effect of a decision in a litigated case arising on particular facts. Moreover, a federal statute enacted on the basis of answers to such questions would not effect any constitutional guarantee of rights as it could be amended or repealed at any time by Parliament. Until amended or repealed it would bind the provincial legislatures (to the extent that it was constitutionally valid) but not the Dominion Parliament, as subsequent legislation of the Dominion Parliament inconsistent with its terms could take effect notwithstanding its terms.