

APPENDIX

HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Report of Joint Committee

The Special Joint Committee on Human Rights and Fundamental Freedoms beg leave to make their second and final report, as follows:

Your committee, as a preliminary step in its enquiry resolved a portion of its order of reference of February 18, 1948, into three parts, namely:

- (a) To consider the question of human rights and fundamental freedoms, and the manner in which those obligations accepted by all members of the United Nations may best be implemented;

And, in particular, in the light of the provisions contained in the Charter of the United Nations, and the establishment by the Economic and Social Council thereof of a Commission on Human Rights.

- (b) What is the legal and constitutional situation in Canada with respect to such rights;
- (c) And, what steps, if any, it would be advisable to take or to recommend for the purpose of preserving in Canada respect for the observance of human rights and fundamental freedoms;

for consideration in the order (a), (c) and (b).

With respect to part (a), your committee gave immediate consideration to the draft International Declaration on Human Rights forwarded to the government by the Secretary-General of United Nations.

Although not legally binding upon states, such a document, being a statement of principles, will tend to influence the course of legislation in states which consider themselves morally bound by its provisions, and will, therefore, promote human rights and fundamental freedoms.

As the draft declaration has been undergoing changes at recent meetings of organs of the United Nations, your committee decided that it should not attempt to prepare a further draft but should examine critically the principles set out in the existing draft together with such comments of other governments as were available.

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 govern-

ment, 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