

CONSTITUTIONAL CONFERENCE

COMMITTEE OF MINISTERS ON FUNDAMENTAL RIGHTS

Meeting No. 2

November 3-4, 1969

PROGRESS REPORT OF THE COMMITTEE
OF MINISTERS ON FUNDAMENTAL RIGHTS
TO THE CONSTITUTIONAL CONFERENCE



Progress Report of the Committee of
Ministers on Fundamental Rights

The Committee of Ministers on Fundamental Rights held its second meeting on November 3 and 4, 1969. All governments were represented.

The Committee had a further discussion of basic political rights including:

- (a) freedom of conscience and religion;
- (b) freedom of expression (including freedom of speech and of the press);
- (c) freedom of assembly and association.

During this discussion, the Committee examined studies which had been carried out concerning the implications of entrenchment and the experience in other countries with entrenched fundamental rights.

All members of the Committee expressed agreement that these fundamental political rights of Canadians should be protected, although there was a question as to the best way by which this could be done. It was suggested by some delegations that certain rights should be entrenched in the Constitution; of those who held that view, some felt that entrenchment should be dependent upon the development of an acceptable formula for amending the Constitution and upon the definition of the substance and limits of these rights. On the other hand, it was suggested by some delegations that these rights could be protected most effectively by their statement in ordinary statutory form.

Some delegations were of the opinion that First Ministers should be made aware of their desire to have the study of an amending formula accorded a priority so that it proceed concurrently with work on other aspects of the constitutional review.

The ministers agreed that there should be additional study of political rights to refine their definitions and that the Committee should re-examine alternative ways of protecting these rights.

There was unanimous agreement that the Constitution should provide certain guarantees for freely held elections at maximum intervals of five years at both the federal and provincial levels.

Further discussion of legal rights revealed that the majority of members continue to doubt the advantages of their entrenchment. Following examination of alternatives, the Committee agreed to study and explore the question of whether certain of these rights should be dealt with by entrenchment or by federal and provincial legislation.

The Committee also discussed the question of whether or not a due process provision should be incorporated into the Constitution. The Committee agreed to study the effects of due process clauses, distinguishing between substantive and procedural due process.

The Committee of Ministers agreed to establish a Sub-Committee to give detailed study to the questions identified above concerning political rights, legal rights and due process.

The Committee of Ministers agreed to request further direction from the Constitutional Conference. It agreed also that, subject to such direction, it would meet again in the spring of 1970 to consider reports from the Sub-Committee, and to examine other rights, including egalitarian, social and economic rights.


John N. Turner,
Chairman