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November 4, 1969

CONSTITUTIONAL CONFERENCE
COMMITTEE OF MINISTERS ON THE JUDICIARY

MEETING NO. 2
NOVEMBER 4, 1969

PROGRESS REPORT OF THE COMMITTEE
OF MINISTERS ON THE JUDICIARY
TO THE CONSTITUTIONAL CONFERENCE

CMJD/R/2



Progress Report of the Committee of
Ministers on the Judiciary to the
Constitutional Conference

The Committee of Ministers on the Judiciary held its second meeting on Tuesday, November 4, 1969. All governments were represented.

The Government of Quebec presented a working paper advocating inter alia, the establishment of a Constitutional Court, as distinct from a Federal Appeal Court, to interpret the constitution and to rule on jurisdictional disputes.

Ministers exchanged views on questions and issues arising out of the paper. A number of delegations expressed sympathy with the unique position of Quebec and there was general agreement that the Quebec proposals raised new concepts which should be examined in detail. At the same time, delegations reserved their positions on the several issues, and in particular regarding a separate Constitutional Court, primarily because of the difficulty foreseen in separating the constitutional from the substantive aspects of a case.

The Committee unanimously reaffirmed the consensus reached at its first meeting in May - that a Supreme Court should be specifically provided for in the Constitution, along with its basic jurisdiction and the method of appointment of the judges, and that existing provisions of the B.N.A. Act respecting the independence of the judiciary be extended to a supreme court.

In general, members expressed satisfaction with the present final appellate tribunal, although it was agreed that the method of appointment to the Supreme Court, as well as its composition in terms of numbers and regional representation, should be examined. The Ministers also made reference to various questions concerning such aspects of the judiciary as civil law appeals and precedent, as well as to Provincial Courts.

The Committee decided that to advance its work, individual delegations would examine the Quebec proposals, as well as alternative suggestions and forward comments and propositions on this subject to the Secretariat by the end of January. The Secretariat was charged with collating and distributing this material to all delegations by the end of February. In the light of this work, the delegations would then consult on how best to proceed, subject to any additional direction from the Constitutional Conference.



John N. Turner,
Chairman