



**LEGISLATIVE ASSEMBLY OF THE NORTHWEST TERRITORIES**

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Speaker: The Honourable Donald M. Stewart, M.L.A.

# LEGISLATIVE ASSEMBLY OF THE NORTHWEST TERRITORIES

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TABLE OF CONTENTS  
TUESDAY, FEBRUARY 28, 1984

	<u>PAGE</u>
Prayer	634
Ministers' Statements	
- On the Status of Women	634
- On NWT Winners, National Wildlife Week Poster Contest	636
Oral Questions	636
Written Questions	639
Returns	639
Tabling of Documents	640
Notices of Motion	641,670
Motions	641
Consideration in Committee of the Whole of:	
- Tabled Document 24-84(1) The 1984 First Ministers' Conference on Aboriginal Rights	643
Report of Committee of the Whole of:	
- Tabled Document 24-84(1) The 1984 First Ministers' Conference on Aboriginal Rights	670
Orders of the Day	671

YELLOWKNIFE, NORTHWEST TERRITORIES

TUESDAY, FEBRUARY 28, 1984

MEMBERS PRESENT

Mr. Angottitaurug, Mr. Appaqaq, Mr. Arlooktoo, Mr. Ballantyne, Hon. Tom Butters, Hon. Nellie Cournoyea, Hon. Tagak Curley, Mr. Erkloo, Mr. Gargan, Mrs. Lawrence, Mr. MacQuarrie, Mr. McCallum, Hon. Richard Nerysoo, Mr. Paniloo, Hon. Dennis Patterson, Mr. Pedersen, Mr. Pudluk, Hon. Nick Sibbeston, Mrs. Sorensen, Mr. T'Seleie, Mr. Wah-Shee

ITEM 1: PRAYER

---Prayer

DEPUTY SPEAKER (Mr. Wah-Shee): Before we proceed, the House would like to recognize the former Member of the Executive Council and Member of this House, Mr. George Braden.

---Applause

Item 2, Members' replies. There appear to be no Members' replies today. Item 3, Ministers' statements. Honourable Mr. Patterson.

ITEM 3: MINISTERS' STATEMENTS

Minister's Statement On The Status Of Women

HON. DENNIS PATTERSON: Thank you, Mr. Speaker. I would like to make a statement on the status of women in the Northwest Territories. First of all, I would like to give some of the history of the Government of the Northwest Territories initiatives regarding the status of women and to acknowledge the special contributions of Ms Carolyn McCabe as the force behind the initial attempt to establish an advisory council on the status of women.

---Applause

In 1974, Ms McCabe who is well-known to us, was appointed the Northwest Territories representative to the federal International Women's Year working group. She chaired a committee of NWT women who met during 1975 which was International Women's Year, to address northern concerns and to make recommendations for change. In May 1979, an interdepartmental committee chaired by Ms McCabe organized a one day meeting in Yellowknife for female Government of the Northwest Territories employees titled "Breaking New Ground". It was an eye opener, Mr. Speaker. The bureaucracy nearly ground to a halt. Managers did their best to cope, but telephones went unanswered and very little typing, filing, or administrative support work -- the work done most often by women -- went on. Clearly, this event demonstrated that women are the backbone of our government. It cannot function without them. This committee of Ms McCabe submitted an action plan and a request to the Commissioner of the day for a permanent advisory council and women's bureau. They were refused, due to budget restraints and the fact that few precedents had been set anywhere else in Canada for establishing such structures. However, Ms McCabe persevered. She continued to keep the subject alive, and for many years she was the contact person regarding "women's issues".

In 1975 the United Nations declared 1975 to 1985 the UN Decade for Women. Through the "Convention for the Elimination of Discrimination against Women" specific advances necessary for women to achieve equality with men were outlined. Canada was one of the majority of countries which signed as a party to that agreement. In 1985 a Canadian progress report will be submitted and the NWT will be expected to participate in this United Nations "report card".

As well, the NWT was affected by the royal commission on the status of women, chaired from 1967 to 1970 by the now retired senator, Florence Bird. That commission made 167 recommendations for the improvement of the unequal status of women in Canada. A permanent Canadian advisory council on the status of women was established to advise the federal minister responsible for the status of women on matters of concern to Canadian women. The NWT has been represented in turn by Barbara Bromley, Ruth Spence, Meeka Kilabuk, Sheila Keet, and currently by Anne Enge, a social worker originally from Fort Smith and now in Yellowknife. In the meantime, Carolyn McCabe and her colleagues continued to patiently promote the idea of an NWT advisory council on the status of women.

Finally, in 1982, the Executive Committee of the Ninth Assembly created the portfolio of Minister responsible for the Status of Women. The first MLA to assume that responsibility was Mr. George Braden. The Ninth Assembly mandated the government to draw up legislation which would give women's concerns the weight of statute. The result is the Status of Women Ordinance. While the ordinance was still in the draft stage, Mr. Braden called together a group of NWT women of varying backgrounds and with a demonstrated interest in women's issues, and asked for advice on future direction. This meeting resulted in changes to the draft as well as giving a general sense of women's concerns.

In June of 1983, I assumed that portfolio and in October, 1983 I had the challenging task of choosing women to serve as members of the advisory council. Taking into consideration the many excellent names put forward and the various cultural, geographic, age and educational perspectives necessary to make decisions relevant to northern women, nine members were appointed on October 4. They are: Kate Tompkins, Norman Wells; Jeela Moss Davies, Ottawa; Cindy Gilday, Yellowknife; Ruby Arnana'aq, Baker Lake; Emelia Gratrix, Fort Smith; Janet Armstrong, Pangnirtung; Faith Cronk, Yellowknife; Bertha Allen, Inuvik; Helen Adamache, Coppermine. At the same time a co-ordinator was hired to put the status of women machinery in place, to assist the advisory council in getting established and to put in place a permanent intergovernmental structure -- a women's bureau -- to act on women's issues.

The advisory council met for the first time February 11 and 12, 1984. They chose from among themselves a president, Bertha Allen of Inuvik and two vice-presidents, Helen Adamache and Janet Armstrong. They tell me that more than 50 issues were identified at this first meeting. From these, priorities have been set for the coming year. In 1984-85 the advisory council will focus on education: 1) educating the public about the presence and functions of the advisory council; 2) educating northern people about women's issues with a view to seeing women as part of family and community -- not separate from them; and 3) affirmative action for women with education and training included as an integral component of the plan.

The women's bureau is acting on this government's initiatives aimed at dealing with the problems of spousal assault and pornography as well as a variety of other issues. The president of the advisory council will be spending a minimum of one third of her time on council matters in the coming year. The council will have a close working relationship with the women's bureau.

Mrs. Allen has asked that I assure this Assembly that it has not turned loose a group of radical women determined to overthrow the men and send them home to sew their own clothes. She assures me that the emphasis, Mr. Speaker, will be on co-operation, not confrontation. She says that a world that is better for women will also be better for men and children.

AN HON. MEMBER: I hope so.

HON. DENNIS PATTERSON: Mrs. Allen is quite prepared to accept an invitation from this Assembly to appear as a witness during the May sitting to answer your questions and provide an update on council activities. In the meantime, Mr. Speaker, through you, I urge individual MLAs to meet and speak with the women in your constituency and encourage them to bring their concerns forward. With your support and co-operation this government can help bring about many positive changes for NWT women. Thank you.

MR. DEPUTY SPEAKER: Thank you, Mr. Minister. Item 3, Ministers' statements. Ms Cournoyea.



Minister's Statement On NWT Winners, National Wildlife Week Poster Contest

HON. NELLIE COURNOYEA: Mr. Speaker, I have a statement in regard to National Wildlife Week poster contest. For the second time in three years a NWT student has won first prize in the National Wildlife Week poster contest. Gerald Hardisty's award for his entry in the 1983 contest "Management: a Wise Investment" was announced recently. Gerald is a student at Thomas Simpson School in Fort Simpson.

Two other students from the NWT were among the nine national runners-up. Todd Davidge also from the Thomas Simpson School was named for his poster "Wildlife Management: Game for the Future" and Raymond Aggerk from the Kreterklerk School in Eskimo Point for a poster entitled "We're in the Same Boat". The three prizes to northerners mean that NWT students won more awards than any other province or territory, duplicating the results of the 1981 contest when the NWT took three of the 10 national awards including first prize which went to Tina Steen of Tuk. The contest is co-ordinated by the Canadian Wildlife Federation and run in conjunction with National Wildlife Week each April. Last years theme was "Wildlife Management". The NWT portion of the contest is conducted each year by the Department of Renewable Resources and last year 1800 entries were received from students across the NWT. Sixteen winners were selected and each received a prize of \$100 with their entries going on to compete in the national contest.

---Applause

MR. DEPUTY SPEAKER: Thank you, Madam Minister. Item 3, Ministers' statements. Item 4, oral questions. Mr. McCallum.

ITEM 4: ORAL QUESTIONS

Question 132-84(1): NWT Housing Corporation Hiring Policy

MR. McCALLUM: Mr. Speaker, I have a question of the Minister for Housing who is not here but I understand Mr. Patterson will field questions related to it. May I have an indication from the Minister as to whether or not the Housing Corporation adheres to the hire north -- hiring in the North?

MR. DEPUTY SPEAKER: Mr. Patterson.

Return To Question 132-84(1): NWT Housing Corporation Hiring Policy

HON. DENNIS PATTERSON: Mr. Speaker, I think I can answer that question in the affirmative.

MR. DEPUTY SPEAKER: Mr. McCallum.

Supplementary To Question 132-84(1): NWT Housing Corporation Hiring Policy

MR. McCALLUM: Mr. Speaker, I would trust that the corporation does adhere to the policy of hiring people from the North rather than from the South, but it has come to my attention that just recently the Housing Corporation has indeed hired somebody from the South as an expediter. I wonder if the Minister, in fielding the question, can go back to his colleague, the Minister responsible for Housing, and see if there can be something done about the recent hiring by the corporation of a person from the South to act as an expediter in Hay River. If in fact it is proven that there has been somebody hired from the South, rather than from the North, would the Minister ask his colleague if he can change that particular contract or the term of this particular person? I do not think it is necessary to hire somebody from the South to do this particular job, so I would ask the Minister if he would meet with his colleague to ascertain just what has gone on and if something can be done about it.

MR. DEPUTY SPEAKER: Honourable Mr. Patterson.

HON. DENNIS PATTERSON: Mr. Speaker, I will have to give a detailed response tomorrow and I would ask that I be given permission to take that question as notice for today. Thank you.

MR. DEPUTY SPEAKER: Thank you, Mr. Minister. Oral questions. Mr. McCallum.

Question 133-84(1): Interest Rate Policy

MR. McCALLUM: Mr. Speaker, yesterday the Minister responsible for Economic Development and Tourism, Mr. Curley, announced a decision of the Executive Council on the advice of the business loan fund boards about lowering interest rates on all high interest business loans to 14 per cent. I laud the Minister for that particular action. I think it is long overdue and I would like to see that continue. May I ask a question of the Minister, Mr. Speaker, as to how the 14 per cent rate was arrived at, since these loans are, if you like, loans of last resort and should be at least prime rate which is not 14 per cent? Also, has the Minister any plans about looking at the policy on an annual or biennial basis so that, should interest rates go up or lower even more, he would take action such as he has taken so quickly?

MR. DEPUTY SPEAKER: Honourable Mr. Curley.

Return To Question 133-84(1): Interest Rate Policy

HON. TAGAK CURLEY: Thank you, Mr. Speaker. I would like to respond to the Member to answer his question. I would like to inform him that many of the loans that the loan fund has carried have been not as stable as other ventures that the business community normally invests money in. So therefore, a number of the loans that were given out were possibly not loaned because rates could not be set at the prime rate because I believe the prime rate is normally given to those investors who are very credible and stable. Therefore in this instance they have not been all that stable, so the government still carries some risk even though we have lowered the interest rate to a number of these businesses. I and my colleagues on the Executive Council discussed the issue at some length the other day and we decided at this time to deal with this on a one-time basis. I was asked to come up with possibly a better recommendation for overall interest rate policy from our department to the Executive Council which would probably consider establishing an interest rate policy taking into consideration the prime rate rather than deciding the interest rate policy on a case-by-case situation. Thank you.

MR. DEPUTY SPEAKER: Thank you, Mr. Minister. Mr. McCallum.

MR. McCALLUM: Mr. Speaker, I appreciate the response but I would hope that the Minister would respond to the second part of the question, whether he would review this or whether he intends to review it yearly or every two years because people who are in business utilizing those funds, would like to know how long they would have to be paying this kind of interest. I appreciate the concern and the response he made in terms of arriving at the figure of 14 per cent, but would he respond to a question of how often he intends to review the particular interest rate?

MR. DEPUTY SPEAKER: Honourable Mr. Curley.

HON. TAGAK CURLEY: Mr. Speaker, I can assure the Member we certainly will review the general interest rate policies of the loan funds, but I will also indicate to the Member that I think our announcement the other day was in line with the financing market and we would want to be in line. If the interest rate goes significantly higher than it is today, I am sure my colleagues and I would want to ask the department to take some action earlier. At this time the interest rate seems to be stabilizing a bit, but if it goes down we would definitely again review the whole thing. At this moment we have not come up with an overall policy on that, but I have been asked to take a good look at it and come back to the Executive Council with a view to possibly coming up with a policy on it. Thank you.

MR. DEPUTY SPEAKER: Thank you. Mr. Erklou.

Question 134-84(1): Price Of Naphtha Gas

MR. ERKLOO: Thank you, Mr. Speaker. My question is directed to the Minister of Economic Development and Tourism, Tagak Curley, concerning naphtha in the Northwest Territories. The price of one gallon varies from eight dollars to \$21. It depends on how that gas is delivered to the communities. Because of the high price of naphtha, I would like to know whether the Minister is going to make some kind of a policy to help out the communities or not. Thank you.

MR. DEPUTY SPEAKER: Honourable Mr. Curley.

Return To Question 134-84(1): Price Of Naphtha Gas

HON. TAGAK CURLEY: Thank you. For the benefit of the Ministers responsible for Government Services and Renewable Resources I would like to respond to the question in the context of my Ministry, Mr. Speaker, because the price of white gas, naphtha, is important to people who are engaged in a renewable resource economy, hunters and trappers. As a result of the price, people who do go out trapping are having a difficult time even buying enough supplies to engage in long-distance travel. So, therefore, I would answer the question and I assure the Member that I will take this question to the Minister and my colleagues in the Executive Council to see whether or not we should be considering a permanent subsidy or assistance. At this moment we have just not been able to come up with any but I will bring it to the attention of my colleagues. Thank you.

MR. DEPUTY SPEAKER: Thank you, Mr. Minister. Oral questions. Mr. McCallum.

Question 135-84(1): Abuse Of Privileges Of General Hunting Licence Holders

MR. McCALLUM: Mr. Speaker, yesterday in discussion on the Department of Renewable Resources there were some questions asked about general hunting licence holders, resident hunting licence holders and the caribou kill. I know that the Minister in a response to written Question 99-84(1) gave facts and figures concerning the kill at Cameron Lake. Of the 3500 caribou that were taken, 2900 or approximately 83 per cent were taken by GHs and the remainder by resident licence holders. I wonder if the Minister could respond to the allegations by a Member of the House that there have been a number of non-native people who have been hunting, abusing, killing and even selling caribou meat within communities? I am not too sure that this is in fact correct, that there is an abuse of it by people. I wonder if the Minister would be able to respond in greater detail to that allegation of the abuse by non-native people in the kill of caribou and if in fact the statistics that she gave to the House in reply to written Question 99-84(1) are an indication of what the kind of kill is throughout the Territories?

MR. DEPUTY SPEAKER: Honourable Ms Cournoyea.

Return To Question 135-84(1): Abuse Of Privileges Of General Hunting Licence Holders

HON. NELLIE COURNOYEA: Mr. Speaker, in regard to the kill in other parts of the Territories I would like to take a look at the other figures and I have them somewhere in this pile of paper here. In regard to the other question of the meat being sold by a non-native person, I had hoped that I had answered adequately that the case in point was that there is no law that disallows a general hunting licence holder from taking caribou meat from one area and then reassigning it or selling it to another GH holder in another community. I believe the incident that Mrs. Lawrence referred to was an incident whereby the male part of the convoy was the husband of a general hunting licence holder and the gentleman was non-native. He would be allowed his tags. However, through the holder of the general hunting licence which was the wife, they were able to take a good number of caribou which was not wasted, which was taken to the community of Fort Resolution. I believe that the responsibility for the wise use of game meat and caribou in particular was probably the responsibility of the general hunting licence holder as well as the person who accompanied her whose licence had a limit of two caribou.

So, Mr. McCallum, I do not exactly know whether that adequately explains the situation that you are referring to or whether that answers your question. However, as Minister of Renewable Resources I feel that the general hunting licence holder has a privilege, a very significant licence which should be honoured because it is a privilege and the fact is that I do not know how we can make laws governing morality, but there was no law broken in that instance.

MR. DEPUTY SPEAKER: Thank you, Madam Minister. Mr. Gargan.

Question 136-84(1): Invitations To Groups To Address The Assembly

MR. GARGAN: Thank you, Mr. Speaker. My question is addressed to the Minister of Education. In the spring session, the president of the advisory council on the status of women would be addressing this Assembly. I was wondering if the Minister would consider sending invitations to other aboriginal groups that might be interested in addressing this Assembly too?

MR. DEPUTY SPEAKER: Mr. Patterson.



Return To Question 136-84(1): Invitations To Groups To Address The Assembly

HON. DENNIS PATTERSON: Mr. Speaker, I am sure that if the Member were to bring such a motion before the House in the usual manner, that it would be well received by myself and other Members of this House. Thank you.

MR. DEPUTY SPEAKER: Thank you, Mr. Minister. Mr. Gargan.

MR. GARGAN: I realize that there is going to be a motion presented in this House with regard to the status of women addressing this Assembly. I guess my question is with regard to other groups addressing this House. Would the Minister consider sending invitations to these other aboriginal groups that might be interested in addressing this House?

MR. DEPUTY SPEAKER: Mr. Patterson.

HON. DENNIS PATTERSON: Mr. Speaker, the invitation can only come from this Assembly. As the Minister I cannot invite any groups to appear here without the concurrence of the House. I am not sure what issues the Member is referring to. We have periodically heard aboriginal organizations discuss issues of concern to them. I am quite open to that. It has been supported in the past and will be supported again. It is not my responsibility, Mr. Speaker, to issue these invitations. The invitations should come from the House through the Speaker. So I encourage the Member to bring forward any suggestions that he has. I am certain that I would be able to support them. Thank you.

MR. DEPUTY SPEAKER: Thank you, Mr. Minister. Oral questions. That appears to conclude oral questions. Item 5, written questions. Mr. Erkloo.

ITEM 5: WRITTEN QUESTIONS

Question 137-84(1): Polar Bear Quota, Hall Beach

MR. ERKLOO: (Translation) Thank you, Mr. Speaker. My written question is addressed to Ms Cournoyea, Minister of Renewable Resources. Residents of Hall Beach have had a polar bear quota of seven ever since they were allocated a quota. They requested the Commissioner between 1969 and 1971 for an increase to the quota. Residents of Igloolik were given an increase of two polar bears. Their quota presently is 18 polar bears and they still have to go to the same place to hunt bears.

Residents of Hall Beach would like the following information. 1) According to the Wildlife Ordinance, their polar bear hunting season opens in the fall. If their polar bear hunting season opens later, would they be able to get an increase in their quota? 2) Is your department prepared to allocate funds for survey and study of polar bears for Hall Beach? Thank you.

MR. DEPUTY SPEAKER: Item 5, written questions. Item 6, returns. Any returns today? Ms Cournoyea.

ITEM 6: RETURNS

Further Return To Question 95-84(1): Sale Of Igloolik Arctic Char Outside NWT

HON. NELLIE COURNOYEA: Mr. Speaker, I have a return to oral Question 95-84(1), asked by Mr. Erkloo on February 22, 1984, regarding sale of char from Igloolik. This question was referred to the Department of Fisheries and Oceans. They made the following reply.

All export of fish out of the NWT comes under the requirements of the Fish Inspection Act and the fish inspection regulations. These are federal government laws. Briefly, the requirements of the regulations are that fish must be handled, cleaned, frozen and processed under specific sanitary conditions in a fish plant or building which is approved and registered by the Department of Fisheries and Oceans. The fish handling facilities at Igloolik are not approved and registered so fish cannot be exported out of the NWT. They can be distributed and sold within the NWT. There has been a lot of dialogue between the Department of Fisheries and Oceans and the Government of the Northwest Territories on the subject of exporting fish out of Igloolik. The Department of Economic Development and Tourism has been involved in these discussions. It was made very clear to all concerned as early as last December that fish could not be exported out of Igloolik under the present conditions.

The Department of Fisheries and Oceans, fish inspection branch, would be most willing at any time, to provide advice on the requirements for a registered fish plant. Airline companies in the Eastern Arctic have been warned about hauling fish, which did not come from a registered fish plant, out of the Eastern Arctic. Any export of fish out of Igloolik last year was contrary to the regulations.

MR. DEPUTY SPEAKER: Thank you, Madam Minister. Any further returns? Mr. Butters.

Return To Question 112-84(1): Housing For Cambridge Bay And Coppermine

HON. TOM BUTTERS: Mr. Speaker, returns on behalf of my colleagues the Hon. Gordon Wray and the Hon. Bruce McLaughlin. First in response to Question 112-84(1), Mr. Pedersen's question on February 23 regarding housing for Cambridge Bay and Coppermine. With additional capital recently approved by the territorial government, the NWT Housing Corporation, in partnership with CMHC, will construct two single persons complexes in Cambridge Bay and one in Coppermine in 1984-85. Each complex will contain eight one-bedroom units and one three-bedroom caretaker unit. Each unit will have a separate outside exit and will contain its own kitchen and laundry facilities.

Return to Question 100-84(1): Transfer Of Medical Services To Baffin Region

Responding for Mr. McLaughlin to Question 100-84(1), asked by Mr. Appaqaq on February 22 with regard to transfer of medical services to Baffin Region. Sanikiluaq is the only community in the NWT where the zones of medical services and the regions of the GNWT do not agree. Health services provided to Sanikiluaq originated previously out of Moose Factory, Ontario. This is a suitable arrangement as the airlines and referral patterns for patients make it most convenient. Administration of Sanikiluaq appears equally as difficult from the Keewatin as from Frobisher Bay. However, Mr. McLaughlin will have his department raise the matter with Health and Welfare Canada and report back at the next session.

Return To Question 114-84(1): Youth Drop-In Centre In Broughton Island

Responding to Question 114-84(1), Mr. Paniloo's question asked on February 23 with regard to a youth drop-in centre in Broughton Island. The Broughton Island alcohol committee has submitted a proposal for funding for the amount of \$101,290. Of this budget, \$38,000 is for capital expenditures, for start up. As their proposal did not meet the requirement for approval -- no capital funding -- the Broughton Island alcohol committee has been advised to rewrite and submit another proposal for the March 20 Alcohol and Drug Co-ordinating Council meeting. Staff members, Bob Cunningham and John Campbell, with the committee chairman, Dr. Ross Wheeler, will be meeting with the Broughton Island alcohol committee on February 25 in Frobisher Bay to discuss the matter further.

MR. DEPUTY SPEAKER: Thank you, Mr. Minister. Item 6, any further returns?

Item 7, petitions.

Item 8, reports of standing and special committees. Item 9, tabling of documents. Mr. Pedersen.

ITEM 9: TABLING OF DOCUMENTS

MR. PEDERSEN: Thank you, Mr. Speaker. In accordance with section 60(10)(d) of the Elections Ordinance, 1978, I wish to table Tabled Document 29-84(1), Election Expense Returns, the candidate's return respecting election expenses for the following candidates: Tagak Curley, Peter Ernerk, Joe Arlooktoo, Kananginak Pootoogook, Samuel Gargan, Nick Sibbeston, Elijah Erklou, Mark Evaloakjuk, John Illupalik, Don Stewart, Don Fergusson, Ludy Pudluk, Frank Pearce, Tom Butters, Rose Marie Karnes, Ben Ell, Dennis Patterson, Red Pedersen, Bill Lyall, Wilfred MacDonald, Malcolm MacPhail, Steve Alookey, Michael Anguttitauruq, Gordon Wray, Ernest Firth, Richard Nerysoo, Nellie Cournoyea, Clifford Reid, Bruce McLaughlin, James Wah-Shee, Jake Heron, Arnold McCallum, Robert Sayine, Eliza Lawrence, Terry Daniels, Bob MacQuarrie, Kit Spence, Michael Ballantyne, R.B. Fells, Glenn Warner, Dan Prima, Lynda Sorensen and John T'Seleie. Thank you.

MR. DEPUTY SPEAKER: Thank you, Mr. Pedersen.

---Applause

Item 9, any further tabling of documents? Item 10, notices of motion. Mr. MacQuarrie.

ITEM 10: NOTICES OF MOTION

Notice Of Motion 32-84(1): Standing Committee On Legislation Terms Of Reference

MR. MacQUARRIE: Thank you, Mr. Speaker. I wish to give notice that on Thursday, March 1, I will move, seconded by the honourable Member for Kitikmeot West, Mr. Pedersen, that the following terms of reference be adopted by this Assembly. Under the heading "Responsibilities", the standing committee on legislation shall a) examine such matters as may be referred to it by the Legislative Assembly; b) review all proposed bills prepared for introduction into the Legislative Assembly; c) in accordance with Rule 92(1) make a written report to the Legislative Assembly. The standing committee on legislation may on its own authority examine all orders and regulations issued by the regulation making authority.

Under the heading "Conduct of Business", 1) the standing committee shall conduct its business in a manner approved by the Legislative Assembly; 2) the standing committee shall, in accordance with Rule 89(2), at the earliest opportunity following their appointment, appoint a chairman and deputy chairman from their own number; 3) a quorum of the standing committee shall consist of five Members including the chairman; 4) the standing committee shall, in accordance with Rule 93(1), have the power to call for such persons, papers and records and to examine witnesses as in its opinion are necessary to the conduct of its business; 5) the Legislative Assembly shall provide from its appropriations the necessary funds for the standing committee to carry out its responsibilities; 6) the standing committee as a whole or individual Members may undertake such travel as is required to carry out the assigned responsibilities of the committee; 7) the standing committee is empowered to retain the services of such professional staff as deemed advisable by the committee; 8) the standing committee shall have the power to sit during sessions, adjournments and recesses of the House. 9) the necessary administrative support shall be provided by the Legislative Assembly office. Mr. Speaker, I will ask for unanimous consent to proceed with this motion under motions.

MR. DEPUTY SPEAKER: Item 10, notices of motion.

Item 11, notices of motion for first reading of bills. Item 12, motions.

ITEM 12: MOTIONS

Motion 26-84(1), Additional Sitting Hours, Mr. Butters.

HON. TOM BUTTERS: Mr. Speaker, I wish permission of the House to stand this motion down one more time.

MR. DEPUTY SPEAKER: Motion 26-84(1) has been stood down for tomorrow. Motion 27-84(1), Standing Committee on Finance Terms of Reference, Mr. Ballantyne.

MR. BALLANTYNE: Thank you, Mr. Speaker. According to the rules I would like to stand down this motion for a second time while the final details are worked out. Thank you.

MR. DEPUTY SPEAKER: Motion 27-84(1) has been stood down for tomorrow. Item 12, motions. Mr. MacQuarrie.

MR. MacQUARRIE: Thank you, Mr. Speaker. I would ask for unanimous consent to proceed with the motion that I gave notice of a few minutes ago.

MR. DEPUTY SPEAKER: Unanimous consent is being requested. Are you agreed?

SOME HON. MEMBERS: Agreed.

MR. DEPUTY SPEAKER: Any nays? Mr. MacQuarrie, proceed.



Motion 32-84(1): Standing Committee On Legislation Terms Of Reference, Carried

MR. MacQUARRIE: Mr. Speaker:

WHEREAS the standing committee on legislation has been appointed by this House;

AND WHEREAS the standing committee is required to have its terms of reference approved by this Assembly;

NOW THEREFORE, I move, seconded by the honourable Member for Kitikmeot West, Mr. Pedersen, that the following terms of reference be adopted by this Assembly;

Responsibilities

The standing committee on legislation shall:

- a) examine such matters as may be referred to it by the Legislative Assembly;
- b) review all proposed bills prepared for introduction into the Legislative Assembly;
- c) in accordance with Rule 92(1) make a written report to the Legislative Assembly.

The standing committee on legislation may on its own authority:

- a) examine all orders and regulations issued by the regulation making authority.

Conduct Of Business

- 1) The standing committee shall conduct its business in a manner approved by the Legislative Assembly;
- 2) The standing committee shall, in accordance with Rule 89(2), at the earliest opportunity following their appointment, appoint a chairman and deputy chairman from their own number;
- 3) A quorum of the standing committee shall consist of five members including the chairman;
- 4) The standing committee shall in accordance with Rule 93(1) have the power to call for such persons, papers and records and to examine witnesses as, in its opinion, are necessary to the conduct of its business;
- 5) The Legislative Assembly shall provide from its appropriations the necessary funds for the standing committee to carry out its responsibilities;
- 6) The standing committee, as a whole, or individual Members, may undertake such travel as is required to carry out the assigned responsibilities of the committee;
- 7) The standing committee is empowered to retain the services of such professional staff as deemed advisable by the committee;
- 8) The standing committee shall have the power to sit during sessions, adjournments and recesses of the House;
- 9) The necessary administrative support shall be provided by the Legislative Assembly office.

MR. DEPUTY SPEAKER: Mr. MacQuarrie, your motion is in order. Do you wish to speak to the motion?

MR. MacQUARRIE: Question.

MR. DEPUTY SPEAKER: Question has been called. All those in favour? Thank you. Opposed, if any? The motion is carried.

---Carried

Item 13, first reading of bills.

Item 14, second reading of bills. Item 15, consideration in committee of the whole of bills and other matters, Tabled Document 24-84(1), The 1984 First Ministers' Conference on Aboriginal Rights; Bill 1-84(1), Appropriation Ordinance 1984-85; Tabled Document 4-84(1); Motion 24-84(1); Bills 2-84(1), 3-84(1), 4-84(1), 5-84(1), 6-84(1); Motion 25-84(1), with Mr. Gargan in the chair.



ITEM 15: CONSIDERATION IN COMMITTEE OF THE WHOLE

PROCEEDINGS IN COMMITTEE OF THE WHOLE TO CONSIDER TABLED DOCUMENT 24-84(1), THE 1984 FIRST MINISTERS' CONFERENCE ON ABORIGINAL RIGHTS

CHAIRMAN (Mr. Gargan): The committee will now come to order. We agreed by motion on Monday the first item of business would be Tabled Document 24-84(1), The 1984 First Ministers' Conference on Aboriginal Rights. Members will find copies of the document in their binders. Would the Minister responsible, Mr. Nerysoo, care to make some opening remarks before the general discussion?

HON. RICHARD NERYSOO: Mr. Chairman, I would like to get the consent of the House to bring in an additional witness, Mr. Stien Lal, the deputy minister of Justice and Public Services who is also our legal adviser on this particular issue.

CHAIRMAN (Mr. Gargan): Is the committee agreed to bring in an extra witness? Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Mr. Minister.

HON. RICHARD NERYSOO: Mr. Chairman, I will also be going to the witness stand before I make my opening statement and will be joined by the Minister of Aboriginal Rights and Constitutional Development, Hon. Dennis Patterson.

CHAIRMAN (Mr. Gargan): Mr. Minister, for the record could you reintroduce your witnesses?

HON. RICHARD NERYSOO: Yes, Mr. Chairman. The witnesses include my colleague the Minister of Aboriginal Rights and Constitutional Development, the Hon. Dennis Patterson and as well I am joined by the deputy minister of Justice and Public Services, Mr. Stien Lal. I have a few opening comments to make and I would like to proceed now.

CHAIRMAN (Mr. Gargan): Proceed.

HON. RICHARD NERYSOO: Mr. Chairman, I have for your consideration a sessional paper tabled by me on February 22, 1984 setting out the matters to be discussed at the 1984 First Ministers' Conference on Aboriginal Rights. As Members are aware, section 37 of the Constitution Act, 1982, provides for a constitutional conference to discuss the rights of aboriginal peoples and other matters that directly affect aboriginal peoples. The conference is to be initiated by the Prime Minister and representatives of aboriginal peoples and the territorial government. Territorial governments are to be invited to the conference. In the spring of 1983 the Prime Minister convened such a conference at which the Government of the Northwest Territories was represented. It was agreed at that conference to hold further First Ministers' Conferences in 1984, 1985 and 1987 to further identify and define the rights of aboriginal peoples of Canada for their inclusion in the Constitution Act, 1982.

Since the fall of last year the ministers responsible for aboriginal matters in various Canadian governments and the attorneys general have met on three occasions to prepare for the First Ministers' Conference which will be held in Ottawa on March 8 and 9, 1984. In addition, to ministerial meetings there have been several meetings of officials and working groups. The ministerial meeting of last fall decided that the First Ministers' Conference should deal with the following four topics: 1) equality, 2) aboriginal title and aboriginal rights, treaties and treaty rights, 3) land and resources, 4) self-government.

The sessional paper sets out the proposed position in respect of each one of these four issues with the Executive Council recommendations to the Legislative Assembly. Mr. Chairman, I would like to invite discussion and debate on each one of those issues so that the recommendations contained in the sessional paper can be approved by this House. With those opening words may I invite you to begin examination of the sessional paper commencing at page two with the issue of equality?

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. We will go through the recommendations page by page and see if Members have any questions. Mr. MacQuarrie.

MR. MacQUARRIE: Yes, a general one first. I was distracted momentarily and I am still not clear on the status of this sessional paper. Is it something that has already been discussed in the Executive Council and where we see the word "Recommendation" are those Executive Council recommendations to this House?

CHAIRMAN (Mr. Gargan): Mr. Minister.

HON. RICHARD NERYSOO: Mr. Chairman, yes, the Executive Council has discussed the items that are before the House and have in fact made the recommendations within this particular document.

#### Equality

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. Mr. Minister, we are starting on page two, "Equality". Do we have any questions from the committee? Mr. Minister.

HON. RICHARD NERYSOO: Mr. Chairman, I just want to indicate that in 1983 at the First Ministers' Conference the government supported the inclusion in section 35 of an equality clause. It was the position of the Ninth Assembly that Part II of the Constitution Act, 1982, of which section 35 is the only section, should become a charter of rights of the aboriginal peoples. It is suggested that in order to remove any doubt about the interpretation of the present wording of subsection 35(4) that the subsection should be amended to clarify that it applies to all the rights and freedoms of aboriginal peoples.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. Mrs. Sorensen.

MRS. SORENSEN: I had my hand up for general comments, but I guess the chairman missed it. I wonder if before we go into the detail if we could have an explanation on some of the terms. For the record I would like to have the term "aboriginal title" defined, "aboriginal rights" defined, "treaty and treaty rights" defined. I do not mean that facetiously, Mr. Chairman. I am not joking. What does it mean in terms of when you write it in this paper? I think that is important that we know and we are all aware right from the beginning what you mean in this paper by it.

CHAIRMAN (Mr. Gargan): Mr. Minister.

HON. RICHARD NERYSOO: Mr. Chairman, I just want to indicate to the Member that one of the major problems with regard to coming to a final conclusion on amending the constitution with regard to aboriginal people, happens to be the interpretation that has been given to the words included within the constitution. There have been some serious questions asked by the provincial governments, by provincial ministers, as to what it means by "aboriginal rights" and the whole intent of the conference and in fact ongoing process is to define and clarify specifically those specific issues. In the case of the NWT it seems that it is a lot clearer because you are negotiating aboriginal rights settlements and, therefore, it is very easy to include those types of agreements within the constitution and those definitions within the constitution of Canada. With regard to the provinces there seems to be some difficulty in accepting the words and connotations that are behind the words. Therefore there seems to be some hesitancy on the part of the provinces to proceed with including certain words and rights in the constitution without getting clarification from the aboriginal people.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. Mr. MacQuarrie.

#### The Term "Aboriginal Title"

MR. MacQUARRIE: Yes, thank you. I recognize that the whole exercise is to try to determine exactly what aboriginal rights are. Nevertheless, so I can accept what you say in respect of that particular phrase. Not so with respect to aboriginal title. In other words one of the recommendations is that we support the inclusion of the term "aboriginal title" in subsection 35(1). Now I presume that there is some legal meaning associated with the term "aboriginal title". Could we hear what that explanation is? What would be implied in "aboriginal title"? If the answer is that even with respect to that phrase we do not yet clearly know what it means, then it appears that you are asking us to recommend something when we are not clear what it is we are recommending. I for one, would have the same kind of concern that you say the provinces have in that case.

CHAIRMAN (Mr. Gargan): Mr. Minister.

HON. RICHARD NERYSOO: Yes, I will allow the deputy minister to answer. I just want to say that the Assembly of First Nations see aboriginal rights flow from title, while the Inuit Committee on National Issues view title as but one aspect of aboriginal rights rather than the source of those rights. So even in that particular issue there is a difference of opinion as to what it means. There is a question of the legal word "title". I assume that the deputy minister can answer that particular question with regard to its legal terms. "Aboriginal title", I think that is a question that has to be clearly defined in the process.

CHAIRMAN (Mr. Gargan): Mr. Lal.

MR. LAL: Thank you, Mr. Chairman. Mr. Chairman, in response to Mr. MacQuarrie's question I would say that the same problem that he sees with "aboriginal rights" applies to the term "aboriginal title". There is a difference of opinion between the governments, especially the federal government and the provincial governments and the aboriginal groups, as to the exact meaning and scope of the term "aboriginal title". The strict legal position that has been taken by the federal government and the provinces is that the term has been used interchangeably by the courts over the last many years with the term "aboriginal rights". Therefore the term is synonymous to the term "aboriginal right". The position of the aboriginal people, however, is quite different from the position taken by the federal government. It is their contention that the term "aboriginal title" is a term which indicates a form of ownership or control over land. That ownership and control carries with it certain benefits and rights that a title holder usually would enjoy in respect of the land over which he or she has that title.

As Mr. Nerysoo indicated, it is expected that the conference in 1984 and the subsequent conferences will further define and clarify what the true meaning of the term "aboriginal title" is. I would suspect that the term, when it is finally defined, would go far beyond what the present strict legal meaning of that term is. Thank you.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Lal. General comments. Mr. MacQuarrie.

#### The Term "Treaty"

MR. MacQUARRIE: Just in a general way again, in talking about definitions with respect to treaties I certainly generally understand what is implied in the word "treaty". Could I have a comment though as to the legal status of Treaties 8 and 11? It seems to me that there has been some, if not legal challenge, at least challenge in principle, to the validity of those treaties. What is the legal status at the present time, with respect to them?

CHAIRMAN (Mr. Gargan): Mr. Minister. Mr. Lal.

MR. LAL: Thank you, Mr. Chairman. Again, Mr. Chairman, there is a difference of opinion between aboriginal people, particularly the AFN, the Assembly of First Nations, and the governments about the scope and meaning of the term "treaty". The aboriginal position is that they entered into those treaties on a nation-to-nation basis between two sovereign nations; the Indian nations or the First Nations and the Imperial Crown from England. Therefore, those treaties are in the nature of international treaties, such as the treaties that Canada may have with other countries. The federal government position, however, is taking the position that these treaties are in fact no more than glorified contracts or agreements and are domestic in nature and therefore do not enjoy the rights and protections that are normally afforded or accorded to international treaties.

As far as challenges to Treaties 8 and 11 are concerned, those challenges to my knowledge, are not based on the legal nature of those treaties but more on the circumstances under which those treaties were entered into. Those challenges are based on legal positions such as the lack of absolute freedom in entering into a treaty like that; the inability of the parties that were entering into the treaty to fully understand the meaning and the scope of the treaty; the fact that the language used was quite different from the language that was spoken by the subjects of that treaty, etc., etc. Thank you.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Lal. General comments. We are on page two, equality. Any questions? Ms Cournoyea.



Rights Of Native Woman Marrying Non-Native Man

HON. NELLIE COURNOYEA: Just a matter of update, in the discussion on equality, how far has that discussion gone in coming to a conclusion and agreement between the provinces? Would it go as far as to say regarding treaty rights that a woman lost because she married outside the treaty, that she would be regaining those rights again? Does that imply from the discussions that have been going on up to this time? Does there seem to be an agreement that that would be recognized?

CHAIRMAN (Mr. Gargan): Mr. Minister.

HON. RICHARD NERYSOO: Yes, I just want to indicate to the Member that that particular issue seems to be an issue that concerns all participants. However, the manner in which they resolve it did not receive consensus. What is now suggested is that there are going to be two and possibly three options that are going to be submitted to the First Ministers to come to some conclusion on that particular area. I can have the deputy minister explain it further.

CHAIRMAN (Mr. Gargan): Mr. Lal.

MR. LAL: Mr. Chairman, I presume the honourable Member is really referring to the discrimination that presently exists under the federal Indian Act which strictly does not fall within the ambit of the constitution. It is a statute that has been passed as a result of legislative authority that is accorded to the parliament of Canada. The passage of the equality provision as it stands now, which presently reads, "Notwithstanding any other provision of this act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons." Assuming, Mr. Chairman, that this provision is considered to be wide enough to cover the Indian Act situation, the present provision in 12(1)(b) of the Indian Act would be rendered unconstitutional. In addition to that, I believe section 28 of the charter stipulates that the rights guaranteed in the charter apply equally to males and females.

There is an additional provision, I believe that is section 15, which will trigger into effect by the 17th of April, 1985, which states that every individual is equal before and under the law and has the right to equal protection and equal benefit of the law without discrimination, in particular without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability. When this provision triggers into effect on the 17th of April, 1985, the 12(1)(b) provision of the Indian Act would, in my opinion, be unconstitutional and therefore would be struck down. Therefore the concern that is expressed by Ms Cournoyea, I presume, would be addressed prior to that date. Thank you.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Lal. Mrs. Sorensen.

MRS. SORENSEN: Following along then with that general trend of thought, what is the assumption then of the children of a woman who has married outside of the treaty or has married a non-treaty person? What are the rights of her children under this equality provision?

CHAIRMAN (Mr. Gargan): Mr. Minister.

HON. RICHARD NERYSOO: That is in fact one area that is trying to be defined again. But under the amendment with regard to equality there will be no discrimination against those children if the constitution is amended to reflect that that equality is in fact extended to both male and female of Inuit, Indian and Metis ancestry.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. Mrs. Sorensen.

MRS. SORENSEN: I am not sure that I understand because is it not true that if a female Indian person marries a non-native person that the children or child of that union becomes a Metis and we are not sure whether Metis, under the new provisions that are being negotiated now, will have the exact same status as treaty people. Is that then not a form of discrimination if that child becomes a Metis and therefore subject to whatever terms and conditions are negotiated for Metis people? I do not understand how the Minister can say that there will never be any more discrimination under this section.

CHAIRMAN (Mr. Gargan): Mr. Minister.



HON. RICHARD NERYSOO: I certainly did not, for instance, establish the Charter of Rights which has caused us some confusion, but one of the things that is trying to be clarified is that the Indian Act and the amendment with regard to equality extend back to those people who have married and have now been classified as non-status. That is in fact one of the major concerns that the provinces have, the question of whether or not they are to pick up that particular expense or whether it is the federal government that picks up that particular expense of having them being converted back to treaty Indians or being protected under the constitution. That seems to be one of the major concerns and major issues with regard to the discussions that have been carried out to date.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. Mr. MacQuarrie.

MR. MacQUARRIE: Just in a general way with respect to the last point, if there were discrimination involved in that, it would be in the establishment of categories in the first place. Since those categories are included in the Charter of Rights and Freedoms of this country, presumably discrimination is not involved in establishing the categories. Otherwise I guess our country should not have done that. From that point on, if you are to use reasonable grounds to say that this person belongs in this category and this one in this category, I do not really see that discrimination is necessarily involved in that if the grounds are reasonable.

CHAIRMAN (Mr. Gargan): Mr. Minister, would you care to comment?

HON. RICHARD NERYSOO: No.

CHAIRMAN (Mr. Gargan): Does the committee wish to go through the paper and agree on each recommendation?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): After coffee, we will start. During coffee break, maybe you should take the time to read through this paper. We will go through the recommendations after coffee. Mr. MacQuarrie.

MR. MacQUARRIE: Could I just clarify the procedure? At each point will the Minister or somebody else move the recommendation and then have a vote on it, recommendation by recommendation? That is what I would prefer but I would like that clarified.

CHAIRMAN (Mr. Gargan): Do the Members wish to proceed that way? Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Thank you. Mr. Minister.

HON. RICHARD NERYSOO: I just want to say I agree with what Mr. MacQuarrie has stated. In fact that was the process that we utilized the last time that this document was introduced. The recommendations are pretty well similar to those of the first document.

CHAIRMAN (Mr. Gargan): Thank you. We will take a 15 minute coffee break.

---SHORT RECESS

The committee will now come to order. We are on page two, equality. The recommendation is on page three, "That the GNWT support the aboriginal groups' position to have subsection 35(4) amended to extend sexual equality to all of the rights and freedoms of the aboriginal peoples". Any questions on that? Mr. Minister.

Motion To Accept Recommendation I, Tabled Document 24-84(1), Carried

HON. RICHARD NERYSOO: Mr. Chairman. I move that the Legislative Assembly adopt recommendation one, which is, "That the Government of the Northwest Territories support the aboriginal groups' position to have subsection 35(4) amended to extend sexual equality to all of the rights and freedoms of the aboriginal peoples".

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. Does the committee agree to this motion?

SOME HON. MEMBERS: Agreed.

---Carried

CHAIRMAN (Mr. Gargan): Thank you. Section II is on aboriginal title and aboriginal rights, treaties and treaty rights. Mr. Minister.

Motion To Accept Recommendation II A, Tabled Document 24-84(1)

HON. RICHARD NERYSOO: Mr. Chairman. I move that the Legislative Assembly adopt recommendation two, which is, "That the Government of the Northwest Territories support the inclusion of the term 'aboriginal title' in subsection 35(1) of the Constitution Act, 1982".

CHAIRMAN (Mr. Gargan): To the motion. Mr. MacQuarrie.

MR. MacQUARRIE: Could I first ask how that section would read then with the inclusion of the words "aboriginal title"?

CHAIRMAN (Mr. Gargan): Mr. Minister.

HON. RICHARD NERYSOO: I will let Mr. Lal answer.

MR. LAL: Thank you, Mr. Chairman. Presuming the word "existing" is deleted out of this section, it would read, "The aboriginal title, aboriginal rights and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed."

CHAIRMAN (Mr. Gargan): Thank you, Mr. Lal. Mr. MacQuarrie, to the motion.

MR. MacQUARRIE: I have concerns about this particular recommendation. It is my understanding or it was my point of view that certainly when we went to Ottawa and urged the government to include recognition of aboriginal rights in the constitution -- I fully supported that move and still do, I have no regrets at all about having done it -- but it was my understanding that what was being done was the entrenchment of the principle and a recognition of the principle that there were aboriginal rights that had to be recognized by the government and the people of Canada and that that was done by entrenching aboriginal rights.

It was my further understanding though, that in subsequent years, the attempt would be made to try to define precisely what those aboriginal rights were, and it is my understanding that that is why all of this process is taking place at the present time and for my part I am reluctant to see further entrenchments of words for which there is no clear meaning. In other words, we have recognized that there are aboriginal rights and it is my view that further entrenchment should only occur when there is a specific and clear understanding of what is being entrenched. It was admitted earlier that there is some confusion as to what this word actually means and it is the federal government's position that aboriginal title is implicit or appears to be in the phrase "aboriginal rights". So for my own part I think that nothing further would be gained immediately by including it and that it may introduce more confusion into the process. I am afraid that I cannot support that particular recommendation.

CHAIRMAN (Mr. Gargan): Thank you, Mr. MacQuarrie. Mr. Minister.

HON. RICHARD NERYSOO: Mr. Chairman, in the discussions that have taken place to date, most of the provincial and federal governments took the view that aboriginal title is implicit in the concept of aboriginal rights. It is our intention, through the recommendation, to make it very explicit that aboriginal title is a part of aboriginal rights and that it is not our intention to include, you might say, a new idea because it is an idea that has been accepted generally. The question I guess is posed: what would that mean to the courts of this country? But in our opinion as an Executive Council it is recognizing those rights and the title that exists with regard to the accepted words of both the provinces and the federal government.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. Mr. Patterson.

HON. DENNIS PATTERSON: Mr. Chairman, I would just like to add a little bit to what my colleague has said. I was a bit concerned when the honourable Member stated that his understanding of what happened when aboriginal rights was put back in the constitution was that the principle of aboriginal rights was recognized. I would like to clarify for this Assembly that the position of this government is generally that we are not interested in talking about principles. Principles are meaningless and unenforceable and contrary to the interests of the aboriginal peoples of the Northwest Territories. The constitution recognized and affirmed aboriginal rights, so it is improper to suggest that we are talking merely about a principle here which will later be further elaborated into specific rights. We are talking about aboriginal rights and I would say that our position is, as a result of the mandate given by this Assembly, to give those aboriginal rights the fullest possible definition and since aboriginal title is likely to be implicit in aboriginal rights, then we feel that it is reasonable and logical to clarify any doubt and remove any possibility of a more narrow definition by including the term in the constitution. That is why we are taking this position. I would remind the Member that we are not talking about title per se or rights per se. We are talking about those rights and that title that pertains to aboriginal peoples. Thank you.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Patterson. Mr. MacQuarrie.

MR. MACQUARRIE: I appreciate the comments of the Minister, but at the same time what I am saying is that there ought to be a process of definition. There ought to be agreement as to what aboriginal rights are and, if aboriginal title is one of those, and I am almost certain that it will be one of the more fundamental -- it would seem to me, that at some point I could see that under the clause where there is a statement that "The country recognizes and affirms aboriginal rights and among these are" and then very specifically they will state what those aboriginal rights are that have been agreed upon among the governments in Canada, the Government of Canada and the native peoples, and presumably aboriginal title would appear in that listing of rights. But, putting it into the general category at this time, I feel confuses the issue further.

CHAIRMAN (Mr. Gargan): Mr. Minister.

HON. RICHARD NERYSOO: Mr. Chairman, I think that it has to be clear that changing the constitution is not something that is very simple. In fact the reality is, the more rights we can get in the sense of being protected within the constitution, the better the process will be in the sense of trying to define them. If the case is that the question of title remains an issue outstanding, then at what time do we come back and define the word? Particularly if aboriginal rights include title. Then the question will be in future, well, if you are adding a new word does it mean then adding a new set of rights to the constitution that is nonexistent? What we are saying is with regard to including title it is part of the aboriginal rights and must be defined within the context of the discussions that are ongoing between now and 1987 so that we are clear and do not have to go back and redefine or reintroduce a new amendment in that particular area.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. Mr. Minister, I wonder can the committee disagree to the recommendations and thereafter move that the whole paper be adopted as presented? I am sorry, Mr. McCallum.

MR. MCCALLUM: Mr. Chairman, I thought that we had agreed when we sat down, to go recommendation by recommendation and that the Leader of the Government agreed with that process. So I would personally rather see us go recommendation by recommendation rather than take it as a whole. That may be laborious but by the same token I think it is necessary to do it that way.

CHAIRMAN (Mr. Gargan): Okay, we will proceed the way we were. Section II on aboriginal title and aboriginal rights, treaties and treaty rights. It has been moved by the Minister, do we accept the recommendation?

SOME HON. MEMBERS: Agreed.

MR. MACQUARRIE: Call a vote for and against.

Motion To Accept Recommendation II A, Tabled Document 24-84(1), Carried

CHAIRMAN (Mr. Gargan): All those in favour of the motion indicate by lifting your hands. All those opposed. This motion is carried. Thank you.

---Carried



Page four, recommendation on aboriginal rights. Mr. Minister.

Motion To Accept Recommendation II B, Tabled Document 24-84(1)

HON. RICHARD NERYSOO: Mr. Chairman, I move that the Legislative Assembly adopt recommendation three "That the GNWT support the concept of entrenching the right of aboriginal self-government in section 35 of the Constitution Act, 1982, with the scope and nature of those governments to be negotiated in each jurisdiction with the appropriate provincial or territorial government involved and the federal government and that constitutional recognition be given to the aboriginal governments which result from such negotiations".

CHAIRMAN (Mr. Gargan): To the motion. Mr. Ballantyne.

MR. BALLANTYNE: Speaking in support of this particular recommendation, I would like to ask the Minister for a little clarification. This concept of negotiating, is that happening right now? Is the fact we are in the process of doing this and if in fact we are, what are the realistic expectations of this government to have that recognized by the parties concerned?

CHAIRMAN (Mr. Gargan): Mr. Minister.

HON. RICHARD NERYSOO: Mr. Chairman, I just want to indicate to the Member that the particular process does exist for instance in the NWT. The whole idea of the Constitutional Alliance, the constitutional forums are institutions which are looking seriously at the possibility of governmental institutions that would represent and recognize the Dene ideas of government, the non-native ideas of government and in the East the Nunavut Constitutional Forum which is dealing with a public type government. So in a sense the government of the people in the NWT is much further ahead than most jurisdictions in this country and is really going to be an example as to how we might set up other forums and processes in other provinces in this country.

SOME HON. MEMBERS: Hear, hear!

HON. RICHARD NERYSOO: The other thing is that the suggestion we are making is in conjunction or at least is similar to that of the federal government. They made that proposal as well. So we are not taking something that is not being supported by other jurisdictions. The Metis National Council also supported the idea. The idea has been supported here in the North, like I said, by the Inuit Committee on National Issues and Dene Nation in the sense of participation in the Nunavut forum and the Western Arctic forum.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. Mr. Ballantyne.

MR. BALLANTYNE: Thank you, Mr. Minister. Supplementary to that, I agree that now the NWT is probably further ahead than any other jurisdiction in this area. I also agree that we should be perceived as a model for other jurisdictions. I wonder, realistically, does the Government Leader feel that the provinces will perceive us as a model and will they be prepared to go as far as we have gone?

CHAIRMAN (Mr. Gargan): Mr. Minister.

HON. RICHARD NERYSOO: I am not quite sure if they are going to accept our process but certainly we are indicating to them and showing them an example as to how, as a government and as a people, we can work together in trying to form institutions of government in the North that are reflective of native values and reflective of the kinds of institutions that might be negotiated between the native people and the non-native people. It is clear that there is some significant concern being expressed by the provinces. That is the reason we are suggesting that each jurisdiction have the right to negotiate the type of institution or the type of self-government that they are prepared to accept. We are somewhat a little more liberal, you might say, about what we accept as a process but that is the nature of the people of the NWT.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. Mr. McCallum.

Aboriginal Self-Government

MR. McCALLUM: Mr. Chairman, just a question. The concept of aboriginal self-government, does this relate only to the setting up of provincial or quasi-provincial governments or does it carry over into other areas of government, local government for example?



CHAIRMAN (Mr. Gargan): Mr. Minister.

HON. RICHARD NERYSOO: Yes, Mr. Chairman, what we are talking about is to entrench the right of self-government. The actual form itself will be dealt with in the ongoing process. That is why we are leaving it so open to negotiation between each jurisdiction.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. Mr. McCallum.

MR. McCALLUM: Well I have no difficulty supporting the concept of entrenching the right of aboriginal self-government especially if it is to be negotiated in each jurisdiction which will include the Territories. I have some concern now with this and the concept of a Western Arctic Regional Municipality, that we as a government have not been part and parcel to the negotiation of that form of government. In fact we have not been made party to even the document itself. If that is in place, that has been negotiated between the federal government and the Committee for Original Peoples Entitlement. It does not involve us and I am concerned as to how the Executive Council now relate this. If that document is finalized there will be no negotiation of that form of government with the territorial government at all. But we will be negotiating with other groups of people, if they want to get into the business of having their own self-government because it will be something that will have to be recognized as having occurred as in the case of COPE. In the future we would be involved otherwise. I am of the opinion and I am very pleased to see the government take the position of getting involved with negotiations. It has not been that long ago since this House did not want us involved with negotiations.

CHAIRMAN (Mr. Gargan): Mr. Minister.

HON. RICHARD NERYSOO: Mr. Chairman, I just want to indicate to the Member that I think the establishment of the Constitutional Alliance was a good process that allowed for the participation of all the people to discuss the idea of self-government for Nunavut and for the Western Arctic in the sense of the Western Arctic forum. The question with regard to a Western Arctic Regional Municipality is something really that the Minister of Aboriginal Rights and Constitutional Development can explain. I just want to say that I think generally the people of the NWT have accepted the role of the non-native people, as well as accepting the fact that in order to establish a system of government that is to be accepted by all people, whether they are aboriginal people or not, is to negotiate and work in the institutions that reflect aboriginal people and at the same time an institution that reflects a non-native community. So I think that principle has been accepted by the aboriginal people of the NWT.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. Mr. Patterson.

HON. DENNIS PATTERSON: Just a further comment, Mr. Chairman. The Western Arctic Regional Municipality concept has not been negotiated between the Committee for Original Peoples Entitlement and the Government of Canada in the final agreement. It is not a part of the COPE final agreement. So the Member's fears in that regard I would suggest are unfounded although one was alluded to in the agreement in principle. So I think if that regional municipality is to develop in the Western Arctic region it must be developed in the context of the fairly public processes that are now in place through the Constitutional Alliance. Indeed I can say that the Nunavut Constitutional Forum has already addressed and endorsed the concept of the regional municipality and it will be endorsed and developed further by the Nunavut Constitutional Forum. Thank you.

CHAIRMAN (Mr. Gargan): Thank you, honourable Mr. Patterson. Mr. McCallum, to the motion.

MR. McCALLUM: I am very pleased to hear what the Minister indicated. The question was raised in this House as to whether that was included in the final initialled document but we were not able to get an answer at that time so I am very pleased to get that kind of an answer now, two or three weeks later, but that is good.

CHAIRMAN (Mr. Gargan): Thank you, Mr. McCallum. Mr. MacQuarrie.

MR. MacQUARRIE: Thank you, Mr. Chairman. Could I ask what terminology is proposed for entrenchment with respect to this clause?

CHAIRMAN (Mr. Gargan): Mr. Lal.

MR. LAL: Mr. Chairman, the final terminology or legal language has not yet been developed but I presume it will be developed in the next two or three days. I would expect that the clause would read something like this: "The aboriginal people have a right to self-government, the scope and nature of that right to be negotiated in each jurisdiction with the appropriate provincial or territorial government involved and the federal government."

CHAIRMAN (Mr. Gargan): Thank you, Mr. Lal. Mr. MacQuarrie.

#### Importance Of Qualifying Words

MR. MacQUARRIE: Certainly if the remainder of the wording that was read was included, that alleviates some of the concerns that I would have. If those words were not part of what was being entrenched, then I would be absolutely opposed to a proposal to entrench the first part of the phrase because when you are entrenching something in the constitution it is of very great significance. It is not just some minor matter that can be dealt with today and dropped tomorrow and that sort of thing. So a very cautious approach is required to all of this. If the phrase did not include such words, what could happen -- I know that, for example, the AFN is talking about sovereign governments. Now if you were only to entrench the first words "the right of aboriginal peoples to self-government" it leaves wide open what kind of government is going to be established and once those words are included, then aboriginal peoples would have that right in Canada and no one could give us the assurance that the Inuvialuit could not, under the terms of that constitution, then pursue self-government in their own area which would be -- we will not make judgment on that right now. It may be desirable and maybe not but the point is, that would be the implication and the implication might also be that the Indian nations would want to pursue sovereign government in Canada and that is a serious implication.

Therefore I must point out too that if those words were the only words that were included and not the qualifying words about negotiating governments with the existing jurisdictions, that in fact that clause could subvert what we are trying to do in the Northwest Territories. Because I must point out that, although I am very strongly in favour of what is happening in the Northwest Territories and hence I have become a part of it and want to be part of it, what we are doing in the alliance and the two forums is not fulfilling a right to aboriginal self-government. What we are trying to do is reconcile a very complex political situation with the co-operation and understanding of all peoples involved and, in fact, if we do it successfully the governments that are established may very well be governments, which from the aboriginal peoples point of view, do fulfil their aspirations for control of their lives. But if the words were not included, that is, that such governments must be negotiated with the jurisdictions that exist now, that whole process could be subverted then. So it is a very serious step and, having heard the proposed wording, I will not vote against this as I had thought to before. The qualifiers to me are just absolutely essential.

Or the alternative I should have mentioned, too, is that if those qualifying words are not to be included then I would say that we should not entrench any words with respect to it now, but begin the process of developing forms of aboriginal self-government and later I would not be opposed to entrenching those, once they are negotiated and agreed upon. Then I would want to see native peoples for the future have the security of having those forms of government entrenched in the constitution. So I would not be opposed to that. I would only be opposed to some very open words being entrenched immediately and be left to find out later what it all means.

CHAIRMAN (Mr. Gargan): Thank you, Mr. MacQuarrie. Ms Cournoyea.

HON. NELLIE COURNOYEA: Mr. Chairman, as a Member of the Western Arctic region I feel that there should be a couple of points cleared up, particularly in the references Mr. McCallum has made to this Assembly. First of all, in the agreement in principle, if he reads it...

MR. McCALLUM: I did many times.

HON. NELLIE COURNOYEA: ...and there is a reference that in the area which is in the general vicinity of the Beaufort Sea there should be a regional government and that no one other than the people who live there would have ethnic breakdown on who should be involved with that regional government. It was one man and one vote and it was to look toward a Western Arctic Regional Municipality and it was to establish a regional government that had some strength. It was not unlike a larger regional municipality, such as in Point Barrow, or perhaps not unlike some of

the larger municipalities around Toronto. The agreement in principle recognized that it would be in the best interests to have such a regional government to bring government closer to the people. There was no ethnic connotation of keeping people out. The terms in the agreement in principle were very general. The people were trying to move that effort forward as a regional municipality and part of the responsibility I was given in my first election and which was part of my campaign was to bring that negotiation through the territorial government, which was done. Each session I tabled a document to update how that process was going and I think that the inference that these things were being negotiated in Ottawa is untrue. There was a recognition that regional governments were in good faith and the work that was done was done through the Committee for Original Peoples Entitlement, community representatives and this government. If you will look at your tabled documents over the past four years, you will find that in almost every session I tabled an update and the negotiations did not go on between the federal government and COPE. Thank you.

CHAIRMAN (Mr. Gargan): Mr. Lal.

MR. LAL: Thank you, Mr. Chairman. Just to address Mr. MacQuarrie's concern further, on page four of the document we state about halfway down the page, "The federal government has suggested that a statement of principles could be developed which would serve as a guide for an accelerated negotiation process to look at..." The proposal put forward by the federal government is to entrench certain principles which would apply to the proposed self-government and, having entrenched those principles, a negotiation process would follow. The difference between the federal position and the territorial position is that the territorial position seeks entrenchment of rights, as opposed to a statement of principle being incorporated in the constitution, but the process envisaged in that proposal which is just the same.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Lal. To the motion. Mrs. Sorensen.

#### Penner Report On Indian Self-Government

MRS. SORENSEN: How does what is going on in terms of this meeting on March 8th relate to what has been going on with respect to the Penner report on self-government? Is it a separate process that is going on with the Penner report on Indian self-government?

CHAIRMAN (Mr. Gargan): Mr. Minister.

HON. RICHARD NERYSOO: Mr. Chairman, it is clear from the past discussions that we have had -- or the quick discussions we have had -- on the Penner report in our meetings they are two different types of processes. The federal government has stated that they are going to prepare a statement about the process of the Penner report so that the provinces can become aware of that report and its implications, as well as the commitment of the federal government to implement the recommendations. At the moment that has not been stated clearly by the federal government. In fact they have not indicated whether or not they are going to proceed and whether or not they would proceed in light of the constitution or outside the constitution. Those, in my opinion, are the issues that are going to be made public to us. There seems to have been some concern about that and how it might be mixed up or cause more confusion, you might say, in the process. What we are really saying in our situation is that we are clear about the kind of process that we want to establish with regard to the development of self-government and the recognition of the right of self-government for the aboriginal people. We do not want to cause confusion with regard to the inclusion of the rights and the process.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. Mrs. Sorensen.

MRS. SORENSEN: Just on another issue, so that I understand what it is that we would be doing, if this amendment to the constitution were accepted. It appears to me that in our own jurisdiction in the Northwest Territories if we were to agree, through the forums and through the alliance, on a Nunavut government and on a government for the western part of the NWT, that with this amendment, what could happen is that we would establish this government and then we could have the aboriginal peoples coming to this government saying, "Under the constitution, because we are aboriginal peoples, we are still entitled to our own self-government. We wish now to negotiate with this new government, this western government and this Nunavut government an aboriginal type of self-government." So within our new governments that might be formed sometime in the future, we could have many other small aboriginal self-governments that would apply only to the aboriginal people, which would probably be much like reserves again. It seems to me that we would be



defeating what we have set out to do through the alliance. Mr. MacQuarrie has talked to that previously. I wonder if the Minister could set me straight on that. Is that not in fact what could happen at some point in the future?

CHAIRMAN (Mr. Gargan): Mr. Minister, to the motion.

HON. RICHARD NERYSOO: Mr. Chairman, there is no doubt in my own mind that the aboriginal people could not say that they were not part of the process. The reality is that they have been invited and are full participants in the ongoing process in the Northwest Territories, so they could not argue that case on their concerns and the issues and the institutions that they wish to establish in the case of the Nunavut Constitutional Forum. They have made it extremely clear to people across the Northwest Territories and across the country that the kind of government they are looking at is in fact a public government. In my opinion there is one type of process that would receive major support across this country and with the provincial governments, and it is that type of a concept. My opinion as well would be, as I explained earlier, that it is extremely difficult to raise an argument that you are not participating when you are in fact sitting at the table developing the institutions of government, developing the direction you wish to establish a government for the Northwest Territories, either in Nunavut or in the western part of the Northwest Territories.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. Mrs. Sorensen, to the motion.

#### Possibility Of Self-Government Within Public Government

MRS. SORENSEN: I guess the point is that though no matter what you say about what the people of the future will be able to claim or not claim, there is a difference between public government and aboriginal self-government. Public government includes all people and aboriginal self-government is for those people who have an aboriginal claim which we hope to fully entrench in the constitution. It is true that they will be involved in the process of establishing a public government. It is hoped that that public government will reflect the kinds of institutions that native people like. It is also true that it is a public government and it does involve a great number of other people that I represent. So, it would seem to me that the Minister has not indicated that there is no possibility at some point in the future of us establishing a public government that has many smaller aboriginal self-governments within it.

CHAIRMAN (Mr. Gargan): Mr. Minister, to the motion.

HON. RICHARD NERYSOO: Mr. Chairman, the recommendation is pretty specific with regard to the scope and nature of those governments. We have stated that and the reason that we have done that is to not have a situation where we are establishing a proliferation of different types of institutions and governments because we have to be clear in which direction we are going. There is no doubt in my mind that the reason we also indicate the scope and the nature of governments, particularly as they relate to the negotiations that would include the provincial and territorial governments, would be to have the concurrence of the territorial governments and concurrence of the provincial governments, because in certain instances the type of governments, the governmental institutions are in fact going to be suggested to be public, even in the provinces. That is really something that has to be worked out. You know, if we were recommending the inclusion of an aboriginal right to self-government without our role that, in my opinion, would more than likely not receive the approval of the Executive Council or the approval of this particular House.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. Mrs. Sorensen, to the motion.

#### Limitations Due To Status Of Territorial Government

MRS. SORENSEN: Just one last question then, and I would like the legal adviser's opinion. Given the limitations that the territorial government has now in the constitution in that I think -- I cannot remember back to the wording -- the territorial government does not have a major status, in terms of a government, in that constitution, what are the chances of the federal government looking at the inclusion of the territorial government in this instance and removing it, on the basis of the kinds of powers that we now have that are given to us by the federal government?

CHAIRMAN (Mr. Gargan): Mr. Lal.

MR. LAL: Mr. Chairman, may I please ask the Member to clarify her question so that I can do justice to it?



CHAIRMAN (Mr. Gargan): Mrs. Sorensen.

MRS. SORENSEN: The territorial government does not have the same status as a provincial government. We do not even have a seat at the table to discuss constitutional amendments unless we are invited by the Prime Minister. What makes us believe that the federal government is going to allow us to negotiate something as important as aboriginal self-government and allow us to be included in this amendment, given the status that we have and the status that the federal government is constantly telling us we have, which is very limited?

CHAIRMAN (Mr. Gargan): Mr. Lal.

MR. LAL: Mr. Chairman, the territorial government has participated in all conferences under section 37 of the constitution, which are conferences pertaining to aboriginal rights. Mrs. Sorensen is correct when she says that the territorial government is not involved in the amending process and does not have the authority to sign the accord. However, territorial government has been created by a federal statute. The federal government deals with the territorial government. The territorial government is mentioned several times in the constitution, the territorial Legislature is mentioned several times, so that I believe it would be politically almost impossible for the federal government to ignore the territorial government. But to fall back on my legal training and to rely on a purely legal argument, it seems to me that if the constitution were to contain a clause which says "the scope to be negotiated with the appropriate provincial or territorial government" that would give the territorial government the necessary constitutional cloak which would prevent the federal government from ignoring the role of the territorial government, since that role will be constitutionally recognized.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Lal. Mrs. Sorensen.

MRS. SORENSEN: But the point that I am trying to make is that it is the federal government plus the provinces with 50 per cent of the population or more, or seven of the provinces, that will make this amendment. What is to prevent them then from removing "territorial government" from the clause and entrenching everything else?

CHAIRMAN (Mr. Gargan): Mr. Patterson.

#### Strong Leadership Role Of Territorial Government

HON. DENNIS PATTERSON: Mr. Chairman, I believe Mr. Lal has some comments from a legal point of view but I would just like to say, from a politician's point of view that the territorial government has taken, I think, a very strong leadership role at these conferences. Mr. Lal was appointed chairman of a major working group on land and resources by the federal government and the provinces and territories and the aboriginal organizations. I think that in itself demonstrates the high status that we have at these conferences, where all jurisdictions were looking to us for leadership and for an example of how these difficult problems -- which many of these jurisdictions have yet to really address in the way we have been grappling with them over the years -- the way the territorial government can actually provide solutions. So I would just like to say that in light of these discussions I think it is extremely unlikely that we will be ignored or kept out of the discussions.

I would also like to say that I am very pleased with the excellent working relationships that we have been developing with the provinces. Positions taken by the territorial government are often supported by the major provinces. We have an excellent working relationship with the governments of Ontario, the western provinces, Manitoba. I think the Member is indulging in remote speculation, with all respect. Thank you.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Patterson. Mr. Lal, did you want to comment?

MR. LAL: No, Mr. Chairman, I have no further comment.

CHAIRMAN (Mr. Gargan): Mrs. Sorensen, to the motion.

MRS. SORENSEN: Mr. Chairman, I think that the honourable Minister forgets that we travelled to Ottawa thinking prior to that, that we had a good relationship with the federal government and the provinces. It was that same government and those same provinces that placed aboriginal rights in

the constitution and then removed it. Only after a great amount of lobbying and a great deal of emotional display, were the aboriginal rights placed back into the constitution. But 42(1)(e) and (f) are still there after we pleaded with them to understand our position. So those same provinces now have the right, if they can get the support of the others, to extend their boundaries into the Northwest Territories and to prevent us from becoming a province or provinces at some point in the future.

So I guess I do not have the same good feeling for those provinces and for the federal government that the honourable Member has. I certainly feel that we should be very cautious in the things that are prepared for acceptance -- from the provinces and the federal government -- on behalf of the people of the NWT. So I do not think that I am speculating or whatever it was the Minister said. I have the right to be somewhat -- I guess -- paranoid about the past simply on the basis of the four years of experience that this House has had with those same provinces and the federal government. I feel that we should spend time questioning the Ministers. I do not do it with any view to thwart what is happening here, but I think that we should be sure of what it is that we are accepting today and be prepared to be able to go back to our constituents and explain it to our constituents. If we do not ask questions, if we do not get confirmation of what we think it means, then we are not going to be able to explain it to our constituents. I feel that it is important so I will continue to ask my questions and try to get some answers from the Ministers.

CHAIRMAN (Mr. Gargan): Thank you, Mrs. Sorensen. Mr. Minister, to the motion.

HON. RICHARD NERYSOO: I think, with regard to this Assembly, we ought to be very proud of the fact that we were an important participant in having the aboriginal rights clause put back in the constitution of Canada because, had we not participated, maybe we would not have raised the consciousness of people in this country. So we have to take pride in the fact that we took the initiative on the direction of my Executive Council colleague, Mr. Curley, to go to Ottawa to raise the consciousness of people in this country to indicate that it is a priority and an important element that had to be included in the constitution.

The other thing you must remind yourselves of is that within the last two or three years our credibility as a government and as an Executive Council has increased because of our participation in many conferences across this country. We have gained support that has never been there before, mainly because of our participation and our constructive criticism that we have given to other jurisdictions, not because we disagreed with their political relationship, but mainly because we did not necessarily agree with the direction that was being suggested as part of a federal position. That, in my opinion has to be recognized. I think that if you have gained the support of a province like Ontario you have to take pride in the fact that they will be there. I have all the respect for an individual like Roy McMurtry, who is the attorney general, and all respect for the premier of Ontario, when they have indicated they are prepared to support aboriginal rights in the constitution and in fact, suggested constructive ways in which we could protect aboriginal rights. I think that I have faith in those people. So I think that I have to say to the Member that we have gained recognition not only as an Executive Council, but as a government, as a Legislature and for that reason we have been recognized as important individuals in the whole issue of aboriginal rights.

You also must remember that 42(1)(e) and (f) are still on the agenda for discussion and we will pursue it and it is part of the recommendations we are making to this Legislature that they ought to remain on the agenda until they are resolved in the process. So there is no doubt in my mind that they will remain on the agenda and that you will receive support to discuss those particular items at some time and hopefully it will be sooner rather than later and that we will get the support of the other provinces. I am not saying that we will, but we have to work on the other provinces to gain that particular support and I think we have the capacity and capability of doing that.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. I would just like to remind the Members that there is a motion on the floor on aboriginal rights. Could you keep your comments to the recommendation? Mr. Curley.

HON. TAGAK CURLEY: Mr. Chairman, before I start could you tell me what motion we are at?

CHAIRMAN (Mr. Gargan): Page four on aboriginal rights, the recommendation underneath. Mr. Curley.



HON. TAGAK CURLEY: Mr. Chairman, unlike some Members here, I want to remain optimistic about our position as a minority government, considering the other provinces in terms of the legal and types of powers they do have. I think what we are dealing with is not just a matter of division of powers and losing powers and delegating powers to aboriginal self-government. I think what we are dealing with is really an historic issue which must be addressed straight forwardly and forthright to try to find a solution to these historical problems of the aboriginal peoples. I do not want to be sidetracked with all the other emotions and paranoia that exist in some parts of the country, the fact that native people might be gaining too much power and the fact that they should remain exactly as they are within the present situation today. After all, I want to bring the issue closer to home and suggest to the Members that I as a Member have been proud to see the leadership of this minority government that has played a part in dealing with the constitutional issues. We, I believe, have presented to the First Ministers possibly the most constructive -- possibly even presenting justice to the whole problem that involves the aboriginal people.

There are, I believe, real problems that face native peoples today. They have not gained a position in the country like some of the other people have and that is sad to me because they are the first people, first citizens of the country and if we cannot be fair with them in trying to bring about a solution, even through this major political exercise, the constitutional process, then I really do not believe that the relationship between the native people and non-natives will ever really be solved. I am supporting the motion as it is because I believe in justice to the native people to try and bring about a fair place for them in confederation.

#### Position Of Non-Native People In Dealing With The Issue

I do not really believe that we have done that throughout history and I am proud to say as a Member of this Legislature that I have been very proud of the leadership of the previous Executive Council when dealing with this issue. George Braden as a non-native person did not fear, did not worry, did not get paranoid. He went about trying to bring to his other colleagues in the whole system, a fair solution, with help from the other Members of the Executive Council. I am proud to say that our Leader is taking a similar position at this moment and it is not a joke. I believe the time has arrived that you no longer are worried about your prominent position as non-native people in this Assembly on this issue but go about and help the native people in trying to bring about a solution. I believe that one of the parliamentary committees has done that through their level, within their jurisdiction. The Penner parliamentary committee did not worry about the consequences because he is scared about his role within the context of Canadian federalism. Sure, I worry about the fact too that there are people who are maybe asking for more than the Canadian federal system can give in terms of sovereignty rights and so on, but I believe that the Canadian parliament and the provinces including our own Territories can possibly tackle that issue when we cross that bridge. I have no fear of the motion and I will be supporting it. Thank you.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Curley. Mr. Ballantyne, to the motion.

MR. BALLANTYNE: Thank you, Mr. Chairman. I, for one, fully support this position paper but I think Mrs. Sorensen is correct that it is the responsibility of this Assembly to ask questions, for two reasons. The first reason is to gain a better understanding of some of the complexities as it is a very complex issue and secondly these questions that are being asked will be asked at the conference. So it is a good exercise I think, for the Minister to respond here because there is no way to avoid responding to these questions once they get down to Ottawa. So I think it is very important that we do go through this exercise. Thank you.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Ballantyne. Mr. MacQuarrie.

MR. MACQUARRIE: Thank you. However noble were the words of the Member for Aivilik I think they were unnecessary and inappropriate and I think every Member of this House, certainly ones that belonged to the Ninth Assembly and travelled to Ottawa, accepts the principle of what is being done. It is not wrong, it is not done in the way of trying to delay when Members simply want to make sure that the steps we are taking are sound at every step and that everybody understands what is being done and why it is being done. So there is no apology from me anyway for being concerned about some of the steps that are included here.

#### Possibility Of Opting Out

The question was raised earlier about if something like this were included in the constitution what could happen later with respect to native self-government. It is a very important question and as the Member of the Western Constitutional Forum I think I can make a couple of remarks that may help



to clarify it. It is clear to me that the Dene, for example, have agreed to participate in the process of the Western Constitutional Forum in the anticipation that it will bring about some changes in the style of government. As we work through this process over the next two or three years, I believe -- and it is not just based on my own thoughts, but rather on words that I have heard spoken by Dene -- that if the process does not yield sufficient change so that they can feel that the kind of government that is going to be proposed will fulfil some of the aspirations they have for self-government, that they will opt out of the process at some point and resort to any provisions that there might be in the constitution for native self-government.

In other words, I think their commitment to work with us all is sincere. From my point I am optimistic, hopeful that there will be the kind of change that not only the Dene but all people of the Northwest Territories will be proud of when we have finished. But, it is possible that the process will fail. If it succeeds I would expect that from the non-native point of view they would want some statement finally, that the style of government that had been developed in the western territory was in fulfilment of the aspirations of native people for self-government and they would not at some subsequent time face another request for native self-government and perhaps an entrenchment in the constitution of that very thing. So that may clarify the way at least that I see the whole thing.

Finally, the way in which the recommendation is stated is sufficiently detailed that I could accept that kind of entrenchment in the constitution. It was the deputy minister however, who said that that was the position of the government and that that was the wording that would be sought. So that I can support it I would ask the Minister if in fact that is the position of the government, that they will seek to entrench the right of aboriginal self-government with the scope and nature of those governments to be negotiated in each jurisdiction with the appropriate provincial or territorial government involved and the federal government. That is important to me. Will the Minister indicate that that is the position this government will take?

CHAIRMAN (Mr. Gargan): Thank you, Mr. MacQuarrie. Mr. Minister.

HON. RICHARD NERYSOO: Mr. Chairman, in fact that is the recommendation that I have moved in this House, recommendation three. "That the Government of the Northwest Territories support the concept of entrenching the right of aboriginal self-government in section 35 of the Constitution Act, 1982, with the scope and nature of those governments to be negotiated in each jurisdiction with the appropriate provincial or territorial government involved and the federal government and that constitutional recognition be given to the aboriginal governments which result from such negotiations".

CHAIRMAN (Mr. Gargan): Mr. MacQuarrie, to the motion.

MR. MACQUARRIE: With respect I understand that is the motion but the motion does not specifically say what words would be included in the constitution. So my question really was when they are attempting to get particular words entrenched in the constitution, is it the government position that those words should include reference to the last part of this recommendation, "with the scope and nature of those governments to be negotiated in each jurisdiction with the appropriate provincial or territorial government involved and the federal government" or words to that effect?

CHAIRMAN (Mr. Gargan): Mr. Minister.

HON. RICHARD NERYSOO: Mr. Chairman, I do not want to delay the discussion here but certainly that is the position I have taken, that is the position the government is going to promote.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. Mr. Ballantyne.

MR. BALLANTYNE: Thank you, Mr. Chairman. I think it is probably an appropriate time to ask this question. Looking through the document, I agree with the recommendations but what will happen is a process of negotiation. If some of the recommendations are not accepted has the government prepared fall-back positions that would in fact change the spirit of what we are agreeing here today?

CHAIRMAN (Mr. Gargan): Mr. Minister.

HON. RICHARD NERYSOO: You are right, I am not sure if it is the time to ask the question. There is no doubt in my own mind, that we are going forward with the recommendations from this Assembly. If it means that certain discussion items that are put before us do not receive final approval

certainly there has to be some process that is agreed to, to continue our discussions so that we can accomplish the kind of direction that has been given to us. You must remember that the process is ongoing until 1987. We would hope that in the interim some decisions are made to include the kinds of recommendations that we are making as a Legislative Assembly in the constitution of Canada. If that happens between now and 1987, certainly we have accomplished what we started out to do. I believe that the federal and the provincial governments and the aboriginal people recognize that there will be some time required in order to accomplish all the kinds of things that they are negotiating in the process. So they extended the time approximately to four years.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. There is a motion on the floor.

AN HON. MEMBER: Question.

CHAIRMAN (Mr. Gargan): Question being called. Mr. Ballantyne.

MR. BALLANTYNE: Well, I guess what I was asking was if the Minister can give us assurance that if we agree to this position paper, significant changes to the position paper will not be negotiated without the Minister coming back to this Assembly to get the consensus of this Assembly.

CHAIRMAN (Mr. Gargan): Mr. Minister.

HON. RICHARD NERYSOO: Well, I would hope that the Members of the Assembly have enough confidence in the Executive Council to negotiate protection of the kinds of things that we have within the document without significantly changing the direction. It may be that we have to establish an additional accord that recognizes the principles that we are talking about within this document, so that it can be included in the ongoing process. We, for instance, have to look seriously at what we might consider, as a government, might be accomplished at this particular conference. If we see that we have a situation where we may not go beyond the idea of agreeing to principles that might be in the constitution, we may have to suggest an alternative because certainly it is our opinion that, for instance, principles in the constitution are not enforceable. They are not rights that can be enforced. So in my opinion and from the discussions we have had, is it really a good thing to include principles in the constitution? Legally that does not seem to be the best way to deal with the thing. So I would suggest to the Members of the Assembly that at least give us some leeway in the sense of trying to negotiate an arrangement or at least look seriously at how we might include these particular recommendations in the constitution either at this particular conference or in the ongoing process. Because these are the recommendations and direction we will take to this particular conference and to ongoing meetings in the upcoming year.

Motion To Accept Recommendation II B, Tabled Document 24-84(1), Carried

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. There was a motion and a question was called. All those in favour indicate by raising their hands. All those opposed? This motion is carried.

---Carried

There will be a 15 minute coffee break.

---SHORT RECESS

The committee will come to order. We are still on section II, item C. Mr. Minister.

Motion To Accept Recommendation II C, Tabled Document 24-84(1), Carried

HON. RICHARD NERYSOO: Mr. Chairman, I move that this Legislative Assembly adopt recommendation four, "That the Government of the Northwest Territories support the removal of the word 'existing' in subsection 35(1) of the Constitution Act, 1982".

CHAIRMAN (Mr. Gargan): All in favour of this motion? Mr. MacQuarrie.

MR. MACQUARRIE: Yes, just to say that when we went to Ottawa to try to have aboriginal rights recognized and affirmed, the question then came up as to whether "existing" should go along with it. I think the advice we all received was that if there are aboriginal rights there are aboriginal rights and the word "existing" did not change that at all. But, if there is a concern that in some way it does I have no problem with the removal of the word from the Constitution Act.

SOME HON. MEMBERS: Agreed.

CHAIRMAN (Mr. Gargan): Thank you, Mr. MacQuarrie. To the motion.

SOME HON. MEMBERS: Question.

CHAIRMAN (Mr. Gargan): Question being called. All those in favour? All those opposed? The motion is carried.

---Carried

We are on section II now, page five, D. Mr. Minister.

Motion To Accept Recommendation II D, Tabled Document 24-84(1)

HON. RICHARD NERYSOO: Mr. Chairman, I move that the Legislative Assembly adopt recommendation five, "That the Government of the Northwest Territories support the establishment of aboriginal rights commissions in each jurisdiction to oversee the operation of land claims settlements and to interpret treaties where they presently exist".

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. To the motion. Mr. MacQuarrie.

MR. MACQUARRIE: I can certainly see the objection to the situation that exists. In a sense the courts have one party that acts as an arbiter in interpretation. But could I ask a couple of questions of clarification. One would be, what is seen as the make-up of these commissions? Are they judicial or quasi-judicial? Secondly, what complications does that introduce in so far as the judicial system is concerned? Does it mean we have two levels of courts or something? I am just not clear what the implications are.

CHAIRMAN (Mr. Gargan): Mr. Minister.

HON. RICHARD NERYSOO: I will ask my deputy minister to respond to that.

CHAIRMAN (Mr. Gargan): Mr. Lal.

MR. LAL: Mr. Chairman, concrete details in respect of this proposal have not yet been fully developed. I would assume however that the Assembly of First Nations is seeking an arbitral board or commission on which there would be representation from the governments as well as from aboriginal people. It would essentially arbitrate on disputes arising out of land claims settlements or treaties. The nature of this commission or the arbitral board would be one of a quasi-judicial type as Mr. MacQuarrie mentioned.

As far as what it will do to the judicial system, my comment would be that it would really have very little direct impact on the judicial system. We have the Human Rights Commission, for instance, which is a quasi-judicial body which carries out arbitration or arbitrates in respect of disputes arising under the human rights legislation. This would be akin to that kind of body. The courts presumably would still have the right to decide an appeal or to correct matters where they are of the view that the commission acted improperly. Thank you.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Lal. To the motion, Mr. Ballantyne.

MR. BALLANTYNE: Mr. Leader, in the Denendeh proposal that was put forward it was suggested that a Dene senate would actually take on the responsibility to oversee the operation of land claims settlements. I wonder does Mr. Nerysoo see the aboriginal rights commission as a viable alternative to the senate proposal as put forward in the Denendeh proposal?

CHAIRMAN (Mr. Gargan): Mr. Minister.

HON. RICHARD NERYSOO: That is a very difficult question to answer, but I just want to indicate to the Member that the suggestion for an aboriginal and treaty rights protection office was a suggestion by the Assembly of First Nations, so I would assume our suggestion is to establish it in fact as an aboriginal rights commission, which would reflect the suggestion being made by the Assembly of First Nations. It is an interim solution in my opinion. It is something that either



can be long lasting or I should not say interim -- it can be long lasting or it can be amended in the ongoing process if, in the discussions that lead to the development of a government of the NWT, if authority was given to a senate of some sort to oversee this particular area and has been agreed to by both the participants who are developing the government. That then, is really a suggestion that can be made, but in my opinion we need something at the moment to oversee the kinds of discussions and negotiations that are ongoing. No doubt the Committee for Original Peoples Entitlement have their own particular mechanism and I assume that the aboriginal rights settlements will develop a type of commission or a type of office that would protect peoples rights. So it is very difficult without really discussing that particular issue in the context of a government to say whether or not it would replace or in fact take over that particular authority.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. To the motion. Do I hear question?

SOME HON. MEMBERS: Question.

Motion To Accept Recommendation II D, Tabled Document 24-84(1), Carried

CHAIRMAN (Mr. Gargan): All those in favour? All those opposed? This motion is carried.

---Carried

Thank you. We are on page six, land and resources. Mr. Minister.

Motion To Accept Recommendation III A, Tabled Document 24-84(1), Carried

HON. RICHARD NERYSOO: Mr. Chairman, I move that the Legislative Assembly adopt recommendation number six, "That the GNWT support the concept of the right of aboriginal peoples to determine their own membership".

CHAIRMAN (Mr. Gargan): To the motion.

SOME HON. MEMBERS: Question.

CHAIRMAN (Mr. Gargan): Question being called. All those in favour? All those opposed? This motion is carried.

---Carried

Land and resources, section B, Metis land base. Mr. Minister.

Motion To Accept Recommendation III B, Tabled Document 24-84(1)

HON. RICHARD NERYSOO: Mr. Chairman, I move the Legislative Assembly adopt recommendation number seven, "That the Government of the Northwest Territories support the Metis in their claim to a land base".

CHAIRMAN (Mr. Gargan): To the motion, Mr. MacQuarrie.

MR. MacQUARRIE: Can I ask the government the rationale for this recommendation? What is the historical argument in favour of a land base for the Metis? If we could look at the NWT for a moment, what would be the implications here if the Metis are entitled to a land base? Whose land, in a sense? You know there are Dene land claims. The Metis insist that they are a distinct people and, if that is true, and it is, then they need not be treated in precisely the same way that status Indians would be treated in Canada. So I would just like two clarifications. What is the rationale for supporting a specific land base and, secondly, what implications are there for this very jurisdiction, to the GNWT, with respect to that?

CHAIRMAN (Mr. Gargan): Mr. Minister.

HON. RICHARD NERYSOO: Mr. Chairman, the Metis of the NWT are included in the negotiations for an aboriginal rights settlement in the NWT. So the actual concern that the Minister has with creating new types of land base or increasing the possibility of land ownership because of including Metis, is already there. The reality is they are already negotiating and we cannot turn back the clock to

say they cannot negotiate. The problem that we have and we are trying to address is recognizing that Metis have a land base in southern Canada as well, particularly if in the constitution it recognizes the aboriginal right of Metis. The question you always have to ask is, what in that term "aboriginal right" are we talking about? If the case is it includes a land base, which we are suggesting, then obviously the governments that are affected have to negotiate that particular arrangement. Alberta, for instance, has established an arrangement, an act that they recognize Metis land and one of the arguments that has been put forward by the Metis National Council on behalf of the Alberta Metis is that that land base should be within the constitution of this country, as opposed to saying that it can be changed because of commitment or political persuasion or political concern that is expressed toward the Government of Alberta, so they are assured that that protection is included.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. To the motion, Mr. MacQuarrie.

MR. MacQUARRIE: Just a little further clarification if I could. I recognize that at the present time the Metis and Dene together are asserting a land claim. However, if this were a part of the constitution, if this were -- let me ask first what I meant to ask earlier. Is this being proposed not only as a principle, but to be included as an amendment in the constitution itself? The Minister nods yes. If that were the case then, what would be the implications for the Territories? Would it mean that the Metis would be entitled under the constitution to a separate land base and a separate land claim?

CHAIRMAN (Mr. Gargan): Mr. Minister.

HON. RICHARD NERYSOO: Certainly in the NWT there is no doubt that the Metis are included within the aboriginal rights negotiations. The land claims are also protected within the constitution of Canada so the reality is that that is not really an issue that we have to seriously worry about because we know, through the definition and the approval of recommendation six, really which people are included. There is no doubt in my mind that there are implications to the provinces, but if we are recognizing that the Metis are aboriginal people under the definition that we have in the constitution and they have rights, then what are those rights? In our opinion one of those rights includes a land base and in some cases they have been protected by provincial acts. In others they have been, you might say, part of the constitution in the sense of the Manitoba act, but in many cases in the opinion of the Metis that is not going far enough in protecting their interests.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. Mr. MacQuarrie.

MR. MacQUARRIE: Just a comment, that while I agree that they are included in the provision now in the constitution recognizing them as aboriginal peoples who have rights, I would say that that does not necessarily mean that they have the same rights as other aboriginal peoples. With this one I am still not really sure of all the implications.

CHAIRMAN (Mr. Gargan): Mr. Minister.

HON. RICHARD NERYSOO: I just wanted to indicate, Mr. Chairman, to the Member that the federal government has recognized and accepted the fact that the aboriginal claim being negotiated in the Mackenzie Valley must include the Metis in its final solution. So whatever happens in the ongoing negotiation process will no doubt affect the situation in the NWT, but our situation is that we already recognize that they are negotiating anyhow. In the case of the provinces that seems to be the area of most significant concern, but in some cases I mentioned already that a land base for the Metis had been recognized, but it has only been recognized in provincial acts. What the Metis have argued is the case that it must be in the constitution so that it does not change with every government. The type or the nature or the area of land that has been protected is not dependent upon the kind of government that is elected but, rather, is protected within the constitution.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. Mr. McCallum, to the motion.

MR. McCALLUM: Mr. Chairman, I just had one quick question. This particular recommendation, is this an initiative of the territorial government or is it an initiative, if you like, throughout the country? I recognize what is happening in the Territories. There may be some difficulty in other provinces. So is it an initiative of the territorial government to try to bring about recognition across the country?

CHAIRMAN (Mr. Gargan): Mr. Minister.

Support To Unprotected Metis

HON. RICHARD NERYSOO: This initiative has come from the Native Council of Canada and the Metis National Council. What we are trying to do is lend support, as a government, to those two particular organizations because there is no question that the Inuit and the treaty Indians have been guaranteed a land base in this country, as well as those people that are negotiating aboriginal claims. So we are lending our support to the other Metis that presently are not protected.

CHAIRMAN (Mr. Gargan): Mr. Ballantyne.

MR. BALLANTYNE: Well, I support this recommendation. For all reasons we believe in the Northwest Territories, Metis are entitled to certain rights. I think to be consistent we have to support those same rights in the South. I think Members may have some problem recognizing the more practical aspect of this particular clause, that by supporting the Metis in the South in this area where in fact we have already accomplished this end, that that could give more credibility and more opportunity for us to gain support for other areas that are of specific concern to us. I think it is a positive clause in both ways. I think we can use it as a negotiating tool as well as taking a moral stand.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Ballantyne. To the motion. Mrs. Sorensen.

MRS. SORENSEN: I am just a little bit confused about what we are doing in the North and what we are asking to be done in southern Canada. In the North we are saying, and the federal government has agreed, that the Metis will be part of the aboriginal claims, including land. In the South where there are claims that have already been settled, we are not asking for the Metis now to be a part of these claims but in fact we are asking for a separate land base claim to be negotiated with the Metis people. Is that what this says in this recommendation?

CHAIRMAN (Mr. Gargan): Mr. Minister.

HON. RICHARD NERYSOO: It only means that we recognize that the Metis are guaranteed, in the constitution, a land base, if the case is either for reasons that the federal government or the provincial governments saw fit not to recognize an act such as the Manitoba act where the agreement may not have been satisfactory to the Metis. The reality is that there was a commitment in that particular act. In many cases that was not lived up to. I do not know the situation with regard to other jurisdictions but our commitment is that if we recognize the right of the Metis in the Northwest Territories, does that mean then that we do not recognize the right of the Metis in other jurisdictions? Our suggestion is that if the case is valid here the case is valid there.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. Mr. Patterson.

HON. DENNIS PATTERSON: Mr. Chairman, maybe just to elaborate a little more. I do not certainly want to pretend to fully understand what the Metis organizations are advancing at the First Ministers' Conference. I think that Members should know that they say they have aboriginal rights but those aboriginal rights are not going to mean anything unless they can have some kind of a homeland in which to express those rights. As I understand it, the notion of a Metis land base in Saskatchewan or in Manitoba is nowhere near comparable to the sort of land claims negotiations that are going on in the Northwest Territories. I believe they have in mind quite a limited area of land and quite limited local powers which would include the kind of taxation powers that one finds in a county or municipal form of government and would include jurisdiction over largely local matters. They are proposing, as I understand it, land bases where Metis could live in their traditional manner which might be somewhat analogous to reservations. It is a much more limited concept of land rights that they are asking for in southern Canada than what we understand from land rights in the North. I think the Metis recognize that there is only so far they can take the concept of land rights in provincial jurisdictions considering the historical background in southern Canada, if that assists the Member further. Thank you.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Patterson. To the motion.

AN HON. MEMBER: Question.



Motion To Accept Recommendation III B, Tabled Document 24-84(1), Carried

CHAIRMAN (Mr. Gargan): I hear a question. All those in favour? All those opposed? This motion is carried.

---Carried

Thank you. Page seven, section C, Mr. Minister.

Motion To Accept Recommendation III C, Tabled Document 24-84(1), Carried

HON. RICHARD NERYSOO: Mr. Chairman, I move the Legislative Assembly adopt recommendation eight, "That the Government of the Northwest Territories support the concept of self-government on a land base, with such self-government to be negotiated in the appropriate jurisdiction".

CHAIRMAN (Mr. Gargan): To the motion.

AN HON. MEMBER: Question.

CHAIRMAN (Mr. Gargan): Question is called. All those in favour? Opposed? This motion is carried.

---Carried

Thank you. Section D, recommendation nine. Mr. Minister.

Motion To Accept Recommendation III D, Tabled Document 24-84(1), Carried

HON. RICHARD NERYSOO: Mr. Chairman, I move that the Legislative Assembly adopt recommendation nine, "That the Government of the Northwest Territories support the position that the federal government is responsible for all aboriginal people pursuant to section 91(24) of the Constitution Act, 1867, including the Metis".

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. To the motion. Mr. MacQuarrie.

MR. MacQUARRIE: Do I understand that now the Metis would be the responsibility of provincial governments? Under the situation that existed before there was no distinction made between Metis and other people in provincial jurisdictions so the responsibility for health and education and so on, lay with the provinces. Since the Metis have now been included in the definition of aboriginal peoples in the constitution, this recommendation is saying that therefore the federal government should have full responsibility for all of the programs which apply to Metis people. Is that what this is all about?

CHAIRMAN (Mr. Gargan): Mr. Minister.

HON. RICHARD NERYSOO: Can I just say that it is in a state of confusion? That is that they are not, the federal government and provincial governments have not agreed on who is responsible for the Metis. On one hand the federal government says they are not. On the other hand the provincial government says they are not. But the reality is that under the constitution someone has to take the particular responsibility and we are recommending a solution to hopefully resolve the particular issue. That is that the federal government is the government responsible for the Metis.

CHAIRMAN (Mr. Gargan): To the motion. Mr. Ballantyne.

MR. BALLANTYNE: Just a point of clarification. In this one and in the last one we are talking about in each jurisdiction with the appropriate government. Why do we not say with the appropriate territorial or provincial government? Is there a reason for that?

CHAIRMAN (Mr. Gargan): Mr. Minister.

HON. RICHARD NERYSOO: Yes, in these two particular situations there seems to be some confusion. The whole issue of land and resources, that particular area was dealt primarily with the Metis of southern Canada. The reason we indicated appropriate jurisdiction is that we already have a

process in place and the concept with the Dene and the Metis in the North, so under the first sections we did not have to deal with this particular issue. This is actually from the Metis National Council and the Native Council of Canada.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. To the motion. Did I hear question? Question is called. All those in favour? All those opposed? This motion is carried.

---Carried

Page eight, recommendation 10. Self-government. Mr. Minister.

Motion To Accept Recommendation IV A(a) And (b), Tabled Document 24-84(1)

HON. RICHARD NERYSOO: Just so that this particular area does not cause any serious confusion as well, self-government was dealt with primarily by the Inuit Committee on National Issues. The kinds of recommendations that are going to be made here are reflective of that working relationship that we had with the Inuit Committee on National Issues. So, Mr. Chairman, I move that the Legislative Assembly adopt recommendation 10, "(a) That the Government of the Northwest Territories support the concept of entrenching the right of aboriginal self-government in the Constitution Act, 1982, with the scope, nature and powers of such governments to be negotiated in each jurisdiction with the appropriate government. (b) That the Government of the Northwest Territories support the concept of according constitutional recognition to such aboriginal governments to protect them from overriding federal and provincial legislation".

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. To the motion. Mr. MacQuarrie.

Motion To Amend Recommendation IV A(a) And (b), Tabled Document 24-84(1), Carried

MR. MacQUARRIE: I see that (a) here is essentially the same recommendation that we saw under the section "aboriginal rights". I do notice that the wording is slightly different and the Minister himself outlined the advantage earlier of having particular terminology, namely to "be negotiated in each jurisdiction with the appropriate provincial or territorial government involved". Perhaps it would be desirable to have that same terminology in this recommendation and I will move that amendment then, that (a) have the same wording as recommendation -- I do not know what the number was, but on page four under aboriginal rights.

CHAIRMAN (Mr. Gargan): Thank you. Mr. MacQuarrie.

MR. MacQUARRIE: And (b) will come up in a minute. I guess we are dealing with it as a single recommendation, so "to protect them from overriding federal, provincial and territorial legislation". I would move that amendment be made as well.

SOME HON. MEMBERS: Question.

CHAIRMAN (Mr. Gargan): To the amendment. Question has been called. All those in favour of the amendment? All those opposed? The amendment is carried.

---Carried

To the motion as amended, Mr. MacQuarrie.

MR. MacQUARRIE: The first part of this recommendation was nearly identical to what we had seen earlier, so the real question that we are revolving around now is that the GNWT support the concept of according constitutional recognition to such aboriginal governments. So I gather that the process that is being sought is that, first of all, there should be an entrenchment of the right to aboriginal self-government and the process by which it will be determined. Then this is saying that once that process has been worked through and various governments have been agreed upon in various jurisdictions that those governments, the constitutions, I guess, of those governments should be entrenched as well, so that they will not be subject to ordinary overriding legislation later. Is that correct, what is being asked here?

CHAIRMAN (Mr. Gargan): Mr. Minister.

MR. LAL: Mr. Chairman, what Mr. MacQuarrie has indicated is generally what is anticipated will happen except for the last part where I believe he said "and their constitutions would be contained in the constitution". I do not believe that the constitution, the Canadian constitution, would entrench the entire constitution of the aboriginal government, but it will recognize the aboriginal self-government that has gone through the negotiating processes and the name that is accorded to it. Presumably the section would say that "the government of Denendeh is hereby recognized" or words to that effect. I would imagine it would be a very small section that would cover that or Nunavut.

CHAIRMAN (Mr. Gargan): Thank you. To the motion.

SOME HON. MEMBERS: Question.

Motion To Accept Recommendation IV A(a) And (b), Tabled Document 24-84(1), Carried As Amended

CHAIRMAN (Mr. Gargan): To the motion as amended. Question has been called. All those in favour? Opposed? This motion is carried as amended.

---Carried

Page nine, recommendation 11, Mr. Minister.

Motion To Accept Recommendation IV B, Tabled Document 24-84(1)

HON. RICHARD NERYSOO: There is no doubt I should receive strong support for this next recommendation. I move that the Legislative Assembly adopt recommendation 11, "That the Government of the Northwest Territories continue to press for a discussion of the repeal of subsections 42(1)(e) and (f) of the Constitution Act, 1982, at the 1984 First Ministers' Conference".

CHAIRMAN (Mr. Gargan): Mr. McCallum.

MR. McCALLUM: Mr. Chairman, in light of the comments that were made previously by Mr. Ballantyne regarding our giving support to MNC and other groups, I wonder if we could have some indication from either of the Ministers about how well-received this would be in terms of getting support from either some of the other provinces or some of the native organizations. I think this is the one area, as the Minister has indicated, where he would get quite a bit of support, that is, to repeal these two sections and that basically it requires to get seven out of 10 provinces onside and/or more than 50 per cent of the population of Canada to allow us to take on this final step. So could I get some idea if there has been any discussion with other provinces at previous meetings or with other native organizations to get their support for this motion or something toward this motion?

CHAIRMAN (Mr. Gargan): Mr. Minister.

HON. RICHARD NERYSOO: Yes, Mr. Chairman. I would like to inform the Members of this House that at every Ministers' conference or meeting that we have held, this particular issue has been raised by myself in the speeches that I have made. It is an important item that requires resolution and should be an item that is discussed for repeal during the ongoing discussions. Previous Ministers responsible also raised the particular issue and I believe that the officials have also raised the item with their official colleagues across this country and no doubt people provincially and federally and the aboriginal representatives are fully aware of the concern we have with these two particular subsections. No doubt they are aware that we do want their support when we come to discussing this particular issue.

CHAIRMAN (Mr. Gargan): To the motion, Mr. McCallum.

MR. McCALLUM: Mr. Chairman, does the Minister feel that he will be able to get this item on the agenda? I recognize and I agree with the rationale that a discussion of this topic does logically fit under this whole process, under this particular heading of self-government. Does the Minister feel that he will be able to get it on the table?

CHAIRMAN (Mr. Gargan): Mr. Minister.



HON. RICHARD NERYSOO: Mr. Chairman, I would just like to indicate to the Member that the particular item is not on the agenda at this upcoming First Ministers' Conference. However the items that have to be discussed in the ongoing process are still part of the agenda. We are asking that it become an issue that can be put on the agenda, but at the moment there are four particular issues which we have gone through and those four particular issues are the issues at the moment that will be on the agenda for discussion at the First Ministers' Conference in March, 1984, but we are not lobbying that it come up in the upcoming First Ministers' Conference.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. To the motion, Mr. MacQuarrie.

Support From Native Organizations And Provinces

MR. MacQUARRIE: I was distracted for a moment and may have missed something. I am sorry if I did. Did the Minister indicate what level of support there is for this position of the Territories now? Are some provinces with us? Are we getting support from other native associations? We are giving support here and in other areas that are of concern to them. Just what measures are being taken generally and what is the extent of the support we have now?

CHAIRMAN (Mr. Gargan): Mr. Minister.

HON. DENNIS PATTERSON: Mr. Chairman, I would just like to say that I think there is indeed some advantage in the fact that this is not on the agenda for the March meeting in that it will give us further opportunities to continue the sort of intensive lobbying we have been doing, in the context of these meetings, to have this section removed. I think we have strong support from the Inuit Committee on National Issues as far as aboriginal organizations are concerned and, of course, the Dene Nation and the Metis within their respective organizations are also supporting us, although I do not think it has yet been a strong position of the other organizations simply because it has not been on the agenda of our meetings. I am confident that by the time it comes up all aboriginal organizations will be strongly supporting us.

The provinces, I think it is fair to say, are dissatisfied with the present wording of the section and are now considering at least some support to revisions of the amendment, if not absolute repeal, but as the Member will know from the efforts we made in Ottawa, it is an uphill battle. There is a strong concern underlying about the pie being cut up into too many pieces. So I think it is a bit early to say now whether or not we will succeed in our goals, but I think things are looking promising and there are some provinces clearly who are already convinced, but I think we still have a lot of work yet before we will feel confident about seeing the matter brought to the floor of the First Ministers' Conference. Thank you.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Patterson. Mr. McCallum.

MR. McCALLUM: Given the statement by Mr. Munro here, that may very well add a little bit of fuel to it, certainly on behalf of the federal government. I recognize that there were certain provinces that wanted to put that in, in the beginning, for whatever interests they had in mind, but certainly we can now indicate that we supposedly have the federal government onside about taking on this added step, if we are to believe what Mr. Munro offered. So if you get the organizations and a couple of the other provinces maybe we will get close to it.

CHAIRMAN (Mr. Gargan): Thank you, Mr. McCallum. Mr. MacQuarrie.

Amendment To Motion To Accept Recommendation IV B, Tabled Document 24-84(1), Carried

MR. MacQUARRIE: The Minister has said that he expected there would be strong support for this and certainly there is from my point of view. Just to try to strengthen it a little bit more, I would move an amendment to this recommendation that the words "a discussion of" be deleted from the recommendation and that the GNWT then "continue to press for the repeal of subsections 42(1)(e) and (f)" and so on. I think that should be the objective all the time and yes, not just discussions about it, we should be pressing all the time. So I will move that amendment, Mr. Chairman.

SOME HON. MEMBERS: Agreed.

CHAIRMAN (Mr. Gargan): To the amendment. Question is being called. All those in favour of the amendment? All those opposed? The amendment is carried.

---Carried

To the motion, as amended.

SOME HON. MEMBERS: Question.

Motion To Accept Recommendation IV B, Tabled Document 24-84(1), Carried As Amended

CHAIRMAN (Mr. Gargan): Question is being called. All those in favour? All those opposed? This motion is carried as amended.

---Carried

Is it agreed that the discussion has been concluded and that the sessional paper is adopted? Mr. Minister.

HON. RICHARD NERYSOO: Yes, Mr. Chairman, just prior to leaving I would like to express our appreciation to the Members in this House for supporting the position that has been put forward by the Executive Council. I just want to indicate though, that during our discussions that there is a possibility that we will have to negotiate some of the arrangements and the parameters by which other jurisdictions are prepared to accept certain issues to be included in the constitution or the manner by which we can agree on an ongoing process.

So I just want to indicate that it is important to recognize that there has to be some option and some recognition of that particular responsibility that is in the hands of the Executive Council to make decisions that are required immediately, so as to ensure that we come to some agreement, to ensure that we are protected in the discussions. It may be that we do not achieve everything that we want to, but certainly without any doubt the discussions will recognize the concerns and will recognize the rights that we want to be included within the constitution of this country. I just wanted to inform people of that and hope that we have your continued support in the ongoing discussions. There is no doubt that I will, as the individual who will play the lead role, along with the Minister and the Associate Minister of Aboriginal Rights and Constitutional Development, be reporting to this House on the positions we take in the ongoing discussions.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. Mr. Patterson.

HON. DENNIS PATTERSON: I just want to add a little further to what my colleague has said. I think we very much appreciate the advice and input we have had from the Members of this Assembly today, but I was a bit concerned about the suggestion from Mr. Ballantyne that we could not deviate from this paper without coming back to this Assembly. We are, as Executive Members, I think, given the authority to act when it is not possible to consult with the Legislative Assembly. It may well be that on the opening day of the conference, Prime Minister Trudeau will come up with a proposal or an initiative which the provinces have urged on the federal government, that they take a leadership role in trying to find common ground that we have not contemplated in this paper. Because the federal government has to date had a sort of a chairing type role, they have not actually been very willing to take a leadership role or propose initiatives. Prime Minister Trudeau, I expect and indeed I hope, may well come up with some proposals that will take us much further than we contemplated in this paper. In that event I would certainly hope that we would have the confidence of this Assembly to respond as we see fit, bearing in mind of course the sort of direction that we have been given today. I am sure that when Mr. Ballantyne was the mayor of Yellowknife, things that he was negotiating in Ottawa with respect to the Northern Arts and Cultural Centre or the Arctic Winter Games might not have gone quite as far and as fast if every time the circumstances changed he said, "Well, I am sorry I cannot make a commitment because I will have to go back to my council." I do not think that is the way Mr. Ballantyne acted when he was mayor.

I think that we are going to have to, perhaps, take our courage in our hands and at times make commitments with the expectation that we will get approval and endorsement of this Assembly when we return. I would say that if there is an accord entered into, which happened last March, it will be subject to approval of all the legislatures that are affected. As we did last March, we will bring the accord back to this Assembly and seek your approval and pass on that approval or that reaction to the governments of Canada. We will consult also with the MLAs, of course, and there is I hope going to be a generous contingent of them who will be attending this conference as part of our delegation. I would like to point out, with all respect to the Member, that there is a difference between the Executive and the legislative arm of government. It is not always possible to take everything back to the Legislature. Thank you.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Patterson. Mr. Ballantyne.

MR. BALLANTYNE: I would like to thank the Minister for the political science 200 lesson. I am very aware of the negotiating process and the fact these decisions will have to be made very quickly and that it will not be possible to bring back for ratification some of those decisions to this House. When I was saying that -- and I trust the ability of our negotiators to do this -- as much as is possible to try to stay within the framework of the spirit of what we agreed to today. A second thing, Mr. Chairman, I think it is very well-recognized that Mr. Lal is one of the leading constitutional lawyers in the country. I think he deserves a lot of accolades from this House for putting together this very excellent sessional paper.

SOME HON. MEMBERS: Hear, hear!

CHAIRMAN (Mr. Gargan): Thank you, Mr. Ballantyne. Mrs. Sorensen.

Idea Of Consensus Government Should Not Be Forgotten

MRS. SORENSEN: Just so that we do not get carried away with the difference between the Executive arm and the Legislative Assembly I would remind the honourable Member that this is consensus government. He always takes the opportunity to point it out to me. I would take this opportunity to again point out to him that it is my opinion that in consensus government the Executive arm are the handmaidens of this Legislature. It is this Legislature that gives them the right to proceed and to negotiate. But they must be cautious about what it is that they are negotiating, in that they have to come back to the Legislature if there is a change in direction, because of the nature of the consensus environment that this House stands for and constantly tells others -- and brags about -- that it stands for. I would say that if native people in the negotiating process in the South live up to how they have handled themselves in the past, if there is a strong deviation from the position they went into that, they too will go back to their communities of interest to discuss with their people changes or new initiatives that the federal government may take. So I am not saying that our people who will be representing us, that the honourable Members on the Executive who will be representing us do not have my confidence. I am simply saying that the nature of consensus government is such that we must and should be involved in any major decisions that will be taken on our behalf.

MR. McCALLUM: A bottom line, do not sell the firm.

CHAIRMAN (Mr. Gargan): Order. Mr. MacQuarrie.

MR. MacQUARRIE: For my part I have no problem with a little of the latitude that the Executive Council is asking for. I just hope that when they are sitting at the table if they have their own paper by their right hand that they will have the transcript of the discussion there by their left hand. Equal weight you know. That will satisfy me, providing they have a look at it once in a while.

CHAIRMAN (Mr. Gargan): Thank you, Mr. MacQuarrie. Does the committee agree that the discussion on this sessional paper is concluded?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): I would like to thank the Minister, the deputy minister, Mr. Patterson and the Members. Mr. McCallum.

MR. McCALLUM: I move that we report progress.

CHAIRMAN (Mr. Gargan): All those in favour? Can we do that again. All those in favour of reporting progress could you signify by putting up your hands. All those opposed? This motion is carried. I will now report progress.

---Carried

MR. DEPUTY SPEAKER: Mr. Gargan.



ITEM 16: REPORT OF COMMITTEE OF THE WHOLE

REPORT OF COMMITTEE OF THE WHOLE OF TABLED DOCUMENT 24-84(1), THE 1984 FIRST MINISTERS' CONFERENCE ON ABORIGINAL RIGHTS

MR. GARGAN: Thank you, Mr. Speaker. The committee has been considering Tabled Document 24-84(1) and wishes to report this matter concluded.

Motion To Accept Report Of Committee Of The Whole, Carried

Mr. Speaker, I move that the report of committee of the whole be concurred with.

MR. DEPUTY SPEAKER: Thank you, Mr. Gargan. Members have heard the report of the chairman of committee of the whole. Are you agreed?

SOME HON. MEMBERS: Agreed.

---Carried

MR. DEPUTY SPEAKER: I do not think the report of the chairman is debatable, Mr. Nerysoo.

HON. RICHARD NERYSOO: A point of privilege.

MR. DEPUTY SPEAKER: A point of privilege.

HON. RICHARD NERYSOO: I believe that the report should say "as amended" because there were recommendations that were amended in the report.

MR. DEPUTY SPEAKER: Thank you, Mr. Minister. Mr. Gargan, would you indicate?

MR. GARGAN: Okay, the Tabled Document 24-84(1), I wish to report the matter concluded as amended.

MR. DEPUTY SPEAKER: Thank you, Mr. Gargan. Are Members agreed with the chairman of committee of the whole report. Are you agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

MR. DEPUTY SPEAKER: Thank you. Mr. McCallum.

MR. McCALLUM: Mr. Speaker, I wonder if I may have unanimous consent to return to the orders of the day, Item 10 to give notice of a motion in setting up the terms of reference of the special committee on housing.

MR. DEPUTY SPEAKER: Unanimous consent is being requested. Are you agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

MR. DEPUTY SPEAKER: Proceed, Mr. McCallum.

REVERT TO ITEM 10: NOTICES OF MOTION

Notice Of Motion 33-84(1): Special Committee On Housing Terms Of Reference

MR. McCALLUM: Mr. Speaker, I want to give notice that on Thursday, March 1st I will move, seconded by the honourable Member for the High Arctic, Mr. Pudluk, that the terms of reference for the special committee on housing, as attached, be moved or whatever I am supposed to say now.

MR. DEPUTY SPEAKER: That is fine, Mr. McCallum. Thank you. Are there any announcements from the floor? Mr. MacQuarrie.

MR. MacQUARRIE: Thank you, Mr. Speaker. Since this House has twice dealt with motions dealing with nuclear armaments I think it might be of interest to Members to know that the Departments of National Defence and External Affairs will tonight present a brief on cruise missile testing. It is at 7:00 o'clock at the city hall council chambers.

MR. DEPUTY SPEAKER: Thank you, Mr. MacQuarrie. Any further announcements from the floor? Mr. Clerk, announcements and orders of the day.

CLERK OF THE HOUSE (Mr. Hamilton): There will be a short caucus meeting right after this House rises this evening. At 9:30 a.m. tomorrow there will be a caucus briefing on the COPE agreement.

ITEM 18: ORDERS OF THE DAY

Orders of the day for Wednesday, February 29, 1984, at 1:00 p.m.

1. Prayer
2. Members' Replies
3. Ministers' Statements
4. Oral Questions
5. Written Questions
6. Returns
7. Petitions
8. Reports of Standing and Special Committees
9. Tabling of Documents
10. Notices of Motion
11. Notices of Motion for First Reading of Bills
12. Motions: Motions 26-84(1), 27-84(1), 31-84(1)
13. First Reading of Bills
14. Second Reading of Bills
15. Consideration in Committee of the Whole of Bills and Other Matters: Bill 1-84(1); Tabled Document 4-84(1); Motion 24-84(1); Bills 2-84(1), 3-84(1), 4-84(1), 5-84(1), 6-84(1); Motion 25-84(1)
16. Report of Committee of the Whole
17. Third Reading of Bills
18. Orders of the Day

MR. DEPUTY SPEAKER: Thank you, Mr. Clerk. This House stands adjourned until 1:00 p.m., February 29.

---ADJOURNMENT





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