

Arctic Development

POLITICAL DEVELOPMENT IN THE NORTHWEST TERRITORIES

REFERENCE - GENERAL

Reference Material

Analysis/Review

1982

G.N.W.T. - CONSTITUTIONAL ALLIANCE

9-5-442

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POLITICAL DEVELOPMENT IN THE
NORTHWEST TERRITORIES

Sector: Reference Material

9-5-442

Analysis/Review

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NORTHWEST TERRITORIES

September 1982

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Political Development in the Northwest Territories

September 1982

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Dear Interested Northerner:

This year many interesting events have taken place throughout the Northwest Territories to develop and promote political and constitutional changes. The people of the North voted on April 14, 1982 to divide the Northwest Territories into two separate territories. To accomplish this goal the major native associations and the Northwest Territories Legislative Assembly formed a Constitutional Alliance and two Constitutional Forums. These groups, composed of four Legislative Assembly Members and two leaders from Committee for Original Peoples' Entitlement, the Dene Nation, Inuit Tapirisat of Canada, and the Metis Association of the N.W.T., would be responsible to initiate and promote the development of northern political and constitutional positions.

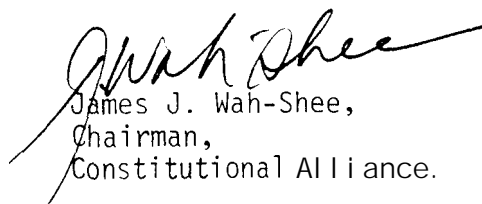
The Legislative Assembly has also appointed a Special Committee on Constitutional Development to conduct public discussions in the western arctic to assist it in developing positions to present at Western Constitutional Forum meetings.

I am aware that the number of groups that has evolved in this political process is confusing to many people. It is my hope that this report which describes the purposes of these groups, and decisions they have made, will help you understand what has happened and how you can participate.

For further information contact:

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Aboriginal Rights and Constitutional
Development Secretariat,
Government of the N.W.T.
YELLOWKNIFE, N.W.T. X1A 2L9
PHONE : (403) 873-7143

Yours sincerely,


James J. Wah-Shee,
Chairman,
Constitutional Alliance.

C O N T E N T S

- * Legislative Assembly Special Committee on Constitutional Development - Terms of Reference.
 - * Report - First Western Arctic Constitutional Conference - Jan. 20-23/82.
 - * Report of the Constitutional Alliance - Feb. 24/82.
 - * Constitutional Alliance meeting - July 6 & 7/82.
 - * Constitutional Forums - Purpose and Tasks - July 7/82.
 - * Nunavut Constitutional Forum meeting - Aug. 10 & 11/82.
 - * Western Constitutional Forum meeting - Sept. 7&8/82.
 - * Western Constitutional Forum - Terms of Reference, Process, Action Plan - Sept. 8/82.
 - * Working Paper for the Second Western Arctic Constitutional Conference - Sept. 14 - 16/82.
 - * Summary - Second Western Arctic Constitutional Conference - Sept. 14 - 16/82.
 - * Notes of meeting between the Honorable John Munro, Minister IAND and the W.C.F. - Sept. 20/82.
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LEGISLATIVE ASSEMBLY OF THE NORTHWEST TERRITORIES

SPECIAL COMMITTEE

ON

CONSTITUTIONAL DEVELOPMENT

TERMS OF REFERENCE

1. **To hold meetings with the following organizations about** the processes or mechanisms which may be established to deal with future political and constitutional development in the Western Northwest Territories:
 - a) **Dene Nation**
 - b) **Metis Association of the N.W.T.**
 - c) **C.O.P.E.**
 - d) **N.W.T. Association of Municipalities**
 - e) **Other groups as determined by the Committee**
2. **In the event that the above organizations agree, the Committee shall organize a conference of representatives of the organizations and Members of the Legislative Assembly to discuss political and constitutional changes and to attempt to come to some general conclusion about the future constitution for the Western Northwest Territories.**
3. **The Committee will report with recommendations to the Legislative Assembly.**
4. **The Committee shall have access to such persons, papers and records as are necessary to its business.**
5. **The necessary administrative support shall be provided by the "Legislative Assembly Office.**
6. **Three members of the Constitutional Development Committee shall form a quorum.**

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7. **The Committee shall be provided through the appropriations with adequate funds to defray all expenses sufficient to enable it to function effectively.**
8. **The Committee or individual members may undertake** such travel as is required to carry out its assigned responsibilities.

REPORT OF THE SPECIAL COMMITTEE ON
CONSTITUTIONAL DEVELOPMENT

The Committee sponsored a constitutional conference in Yellowknife on January 20 to 23, 1982. There were 35 official delegates representing all major native organizations in the western Northwest Territories, all large municipalities, a number of representatives from smaller communities, a number of territorial-wide special interest organizations and most of the **M.L.A.s** from the western Northwest Territories.

The Constitutional conference was generally regarded by the delegates and the public at large as being successful as it brought together representatives from native organizations, large and small municipal bodies, as well as different special interest groups who hitherto had not had a chance to meet together to discuss political and constitutional development in the western Northwest Territories.

A number of motions were passed at the conference, the main one being that a Committee be established consisting of 11 persons representing all **diverse** interests in the western Northwest Territories, whose task would be to provide information, community consultation and assure public involvement in constitutional processes and changes and to report to a constitutional conference to be held no later than May 30, 1982.


The Constitutional Committee supports the concept of holding another Constitutional conference sometime during the Spring. The Committee will await the outcome of the work and decisions of the Conference Committee as to the time and place for such a conference.

In the meantime, the Constitutional Committee has agreed with the conference motion to establish a **Committee** and has agreed with the following membership on the Committee:

- 6 representatives chosen by the Association of Municipalities
- 1 representative each from Fort Good Hope and Fort Providence
- 1 representative each from the following Native organizations:
Dene Nation, Metis Association of the N.W.T., C.O.P.E., and
I.T.C.
- the Chairman of the Constitutional Development Committee

The Constitutional Committee has agreed to fund the first meeting of the Conference Committee and any proposal for subsequent meetings or plans of action will be considered by our **Committee** and this Legislative Assembly.

The future indeed looks bright!



Nick Sibbeston,
Chairman

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RESOLUTION

Be it resolved that the participants at this conference endorse a united front of all the major groups representing northern peoples to deal with the questions of political and constitutional change.

Be it further resolved that the participants at this conference agree to exchange ideas, proposals and thoughts on process and principles and details of political and constitutional change and development for the N.W.T.

Be it resolved that a committee be struck. This committee will be made up of representatives of the groups from territorial and community governments and the major native organizations. Its mandate will be to coordinate and develop a process to guarantee public involvement, community consultation and to provide information. This committee will report back to this group in a meeting to be held no later than 30 May 1982.

Be it further resolved that the Special Committee of Constitutional Development recommend to the Legislative Assembly that consideration be given for providing resources required for the Committee to conduct its mandate.

Moved by: C. Hill - Inuvik
Seconded by: T. Daniels - Yellowknife

PASSED BY CONSTITUTIONAL CONFERENCE
JANUARY 22, 1982

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RESOLUTION

That the following organizations, municipalities and persons be included as part of the committee established earlier in the conference.

These are:

- 1 - Dene Nation
- 1 - Metis Association
- 1 - C.O.P.E.
- “ 1 - I.T.C.
- 1 - City of Yellowknife
- 3 - Larger Municipalities in Western Part of N.W.T.
 - 2- South of the Lake
 - 1 - Northern part of the Western N.W.T.
- 2 - Smaller Communities in the Western part of the N.W.T.
- 1 - Legislative Assembly

Moved by: Mrs. Robinson - Fort Smith

Seconded by: Mrs. Sorensen - Yellowknife

PASSED BY CONSTITUTIONAL CONFERENCE

“JANUARY 22, 1982

RESOLUTION

Be it resolved that the participants of this Conference endorse the continuation of the Fort Good Hope Dene Community Government as a working example of community government in the Western N.W.T.

Moved by: F. T'Seleie - Fort Good Hope
Seconded by: J. Bourque - Yellowknife

PASSED BY CONSTITUTIONAL CONFERENCE
JANUARY 22, 1982

REPORT OF THE CONSTITUTIONAL ALLIANCE

FEBRUARY 24, 1982

The groups most concerned with seeing political and constitutional change in the N.W.T. are working together - in an Alliance. The Alliance members being Inuit Tapirisat of Canada; Committee for Original Peoples' Entitlement; Metis Association of the N.W.T.; The Dene Nation; and, the N.W.T. Legislative Assembly has presented a unified position in support of the N.W.T. Legislative Assembly motion dated November 5, 1980 agreeing in principle to the division of the N.W.T. The Alliance has further agreed to work together to endeavour **to have** a large representative vote on the April 14 plebiscite in order to reflect the real aspirations of long-term residents for responsible governments **as advocated by** the Aboriginal Associations and the Legislative Assembly.

After *several* days of meetings in two sessions, the Alliance has produced two solid positions. The first is for the Alliance to support the initiatives of its members for constitutional **reform** that involve negotiations with the Federal Government. The second is to support the Western Arctic Regional Municipality (WARM) process which is an initiative for change within the Northwest Territories.

The Alliance members have in common the desire to realize significant constitutional, political and administrative change within the N.W.T. and between the N.W.T. and the Federal Government within the life of the Ninth Legislative Assembly.

The Alliance is committed to the principle that constitutional and political change must originate from within the N.W.T. as a result of an active public process. The Alliance is unequivocal that northern initiatives must not be impeded by policies or programs adopted by the Federal Government.

At the founding meeting the Alliance adopted the above principles and agreed on the following co-operative efforts to achieve them:

- a) Invite and provide for full public participation and debate in all **parts of the NWT in the process of constitutional reform;**

- b) provide a forum and a means to assist members of the Constitutional Alliance in areas of common interest;
- c) initiate the development of common positions and negotiate Constitutional reform with the Federal Government; and
- d) initiate political and administrative reform within the NWT where the jurisdiction rests with the NWT Act.

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Being committed to progressive political and constitutional change, the Alliance has agreed to take the initiative after the April 14, 1982 plebiscite for ensuring an open and fair process to work out the details necessary to realize significant political and constitutional reform.

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The April 14 plebiscite will give impetus and direction for the future work of the Alliance. The Alliance will begin work at that time to define constructive solutions on such matters as boundaries, restructuring the government and administration, and the further devolution of powers from Ottawa.

SUMMARY

CONSTITUTIONAL ALLIANCE MEETING
JULY 5 & 7, 1982
YELLOWKNIFE, N.W.T.

In Attendance:

Legislative Assembly:	Bob MacQuarrie James Mah-Shee Kane Tologanak
Dene Nation:	Georges Erasmus Herb Norwegian
Metis Association of the N.W.T.:	Bob Stevenson
Committee for Original Peoples' Entitlement:	Peter Green Sam Raddi
Inuit Tapirisat of Canada:	John Amagoalik John Merritt Allan Mahagak

A b s e n t :

Legislative Assembly:	Dennis Patterson (on annual vacation)
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Presence of the media; agreed on media attendance with possibility of some in-camera sessions.

Adoption of agenda.

Summary of the Alliance's position to date as a result of the recent plebiscite results:

Motions made during the last session establishing committee (i.e. Division);

What connections are involved with these committees and the Alliance? Members can present recommendations to the Legislature on political change within the NWT; involves public input from all native organizations in the NWT as well as the non-native population (two non-native MLA's representing the interests and needs of the non-native population);

Emphasis was placed upon co-ordination between the Alliance committee and other Legislative Assembly committees. The idea of consensus and compromise with these committees was stressed;

Mention of the plebiscite outcome in regard to the Federal Government's response, if any. Motions regarding the plebiscite outcome have been sent to the appropriate Ministers (Federal). As of this date, no formal meeting has taken place with the federal government to determine the procedure or follow-up.

Boundary [Item Z(a)]:

- Make sure there is no duplication of effort by the Alliance and other special committees;
- Concerned with what types of resources are available from the Government of the Northwest Territories to the Alliance;
- Let other committees know where the Alliance stands on issues regarding political change;
- Suggestion: that the Alliance propose and identify its resources, as well as a budget, and submit it to the Federal and/or Territorial Government.
- Suggestion: to meet with the Special Committee on Division to ensure there is consultation and no duplication between both committees; that there be a consensus decision-making process

Concern was mainly focused on Motion 16 82(2), paragraph 3(a) regarding the establishment of a sub-committee within the Special Committee on Division. However, as this committee has not yet been appointed, no definite answer could be given. This could not be resolved until a meeting took place between the two committees to arrive at an agreement on who does what.

Constitutional Forums (See attached paper on Constitutional Forums):

- Recommendation of two constitutional forums, one in the east (Nunavut Constitutional Forum) ; and, one in the west (Western Constitutional Forum). **The principle behind this recommendation was related to the creation of two separate territories (the plebiscite question);**
- Suggestion: that a non-native MLA be a representative on the WCF as well as on the NCF to look out for the interests of the non-native population.
- It was mentioned that the two forums may have different ways of operating and making decisions, but basically with the same intentions;
- At this point in time, COPE agreed in principle with the establishment of the two forums, however, they had the understanding from the last meeting that there would be three forums. Mention was made with reference to the Memorandum of Understanding between the GNWT and COPE regarding W.A.R.M. - where does COPE fit regarding the division and the two forums;
- Suggestion: that COPE has the option to sit on one or the other or both of the forum, or, as an observer to both. Decision is up to COPE.
- COPE is not willing to commit itself to Nunavut or Denendeh at this time and will decide later in the future;
- When and if in the future there is a strong desire expressed for a third territory then it will be dealt with by the Alliance.

Role of the Forums:

- The following were suggested to the members of the Alliance as a general guideline of what the forums should be doing:
 1. Come to a clear position on boundary between the east and west.
 2. The involvement of native and non-native organizations.

3. Negotiate with the federal government
4. Ensure all major interests are represented properly.
5. Try and live within a time frame, possibly one year; and,
6. To resolve this issue within the life of this Assembly, as well as the life of the current Federal Parliament.

Discussion took place, particularly with the two last points. Research will be done for the Alliance to determine if there could be an extension of the life of the Ninth Assembly if division not realized within a year. It was also mentioned that the Federal Government should be involved with the two forums as well as committing itself to a mandate developed through the Alliance;

Native organizations do not want the Legislature (NWT) to negotiate terms developed through the Alliance to the Federal Government.

After lunch on the first day, COPE expressed its concerns regarding their participation on the proposed two forums. They questioned why no consultation took place with COPE when recommending the two forums instead of the three forums that was proposed at the last meeting. It was explained that the two forums were recommended by Mr. Wah-Shee, which were based on the fact of the outcome of the plebiscite; two separate territories, thus, two separate forums. In addition, it was explained that the only reason a third forum was proposed during the last Alliance meeting was to meet the concerns of COPE to have a mechanism in place to establish a W.A.R.M. Now that a separate mechanism is in place to deal with W.A.R.M., there is no reason to have a third forum.

Boundary Commission:

ITC identified two functions that the Forums would serve:

1. Drafting legislation to incorporate two territories; and,
2. Community consultation with regards to the boundary between the two new territories.

Suggested that the two Forums meet to start discussions on the boundary.

- Dene Nation presented their views by stating the Alliance should:

1. identify major players in the East and West that will be involved;

2. ensure public input; process to be made public;
3. form a body to start negotiations with the federal government; and,
4. determine participants of each forum.

Also mentioned that Constitutional Forums are not necessary for regional governments;

Went on to ask how would aboriginal rights be protected by the new territorial government(s) - suggests residency requirement, local institution and protection by Canadian constitution, charter of rights must not override aboriginal rights.

COPE, again, wanted to know their position with the two forums. Wanted a provision for W. A. R.M. and a vehicle to work with now, in order to determine their role in the future. After a considerable discussion on this issue the following motion was moved by Bob Mac Quarrie:

THAT there be established two Constitutional Forums, one for the Eastern Arctic and one for the Western Arctic, whose purpose is to develop and negotiate constitutions for two territories and in addition COPE be offered the option to sit on either or both of those forums as full participants.

THAT this Alliance commits itself to recognizing the possibility down the road that COPE may attempt to establish a third territory.

AND FINALLY, THAT the Alliance try to allocate special funding to COPE so that it can do the kind of analysis and consultation necessary to determine its position.

Motion Carried.

Terms of Reference. - Constitutional Forums:

- The following items are to be incorporated into a draft of terms of reference and tasks of the Forums as requested by the members of the Alliance:

1. develop new constitutions, i.e. drafting legislation;
2. develop and carry out public process;
3. constitutional forums to plug into internal/transitional changes to GNWT;

4. constitutional forums to plug into negotiations with federal government on changes;
5. aboriginal rights/claims, protection and support;
6. boundary issue between two territories;
7. establishment to electoral boundary; and,
8. funding, i.e. develop proposal and staffing.

Draft paper on the Constitutional Forums was presented on July 7, 1982. Alliance reviewed and adopted, with a few amendments the paper entitled "The Constitutional Forums: An Outline of Purpose and Tasks." (See attached)

Boundaries:

- It was suggested by Mr. MacQuarrie that an attempt to reach a northern political consensus on boundary placement be made through the Forums and Alliance. If unable, then the Alliance should look into setting up a northern boundaries commission before getting the federal government involved;
- Metis Association preferred to have aboriginal groups meet first, to work out the boundaries as they relate to aboriginal claims;
- It was suggested by the Dene Nation that the boundary should meet some tests:
 1. coincide with aboriginal boundaries;
 2. public political desires;
 3. most fair for East and West territory.
- It was suggested that the two forums hold a meeting to establish a comprehensive process on boundaries and then meet with the federal government for their response and commitment (preferably in Ottawa).

The Alliance members agreed that a press release be issued outlining: (See attached press release)

- a) the issue of the boundaries in the NWT be resolved within the north and ask the federal government to hold off on the Boundaries Commission; and,

- b) the need for a statement from the federal government accepting and committing itself to the principle of division of the IMF.

General discussion on funding:

- Who would off-set the costs of the initial studies and meetings;
i.e. meetings - East Forum - Frobisher Bay
West Forum - Yellowknife
Joint Forum (Alliance) - Ottawa

Draft of the Press Release was presented and agreed upon with a few minor changes. The Constitutional Forum outline was attached for reference.

Discussion of how an appropriate way of conveying this message to the federal government took place. It was agreed by all members that a telex be prepared by Mr. Wah-Shee's office then distributed to other members for comments and consent. Copy of this telex will also be sent to the Prime Minister's office; Minister of IAND; and, the Federal-Provincial Relations office.

It was agreed that the Aboriginal Rights and Constitutional Development Secretariat act as the joint-secretariat until such time as indicated by the two Forums.

The following are meetings the Alliance and Forums decided on:

- August 10 & 11 - NCF meeting in Frobisher Bay
- August 10 & 11 - WCF meeting in Yellowknife
- August 23 & 24 (tentative) - joint meeting of the two Forums
(i.e. the Alliance) in Ottawa, then meet with the Federal Government.

Item #4 on the agenda, regarding the Conference of First Ministers on the Constitution of Canada was briefly discussed. Nothing of substance was decided or agreed upon in this regard.

NOTE: Metis Association of the NWT tabled a paper regarding a meeting held with the Prime Minister on the issue of the Conference - for information purposes only.

Meeting was adjourned until August 23, when the two Forums (i.e. the Alliance) meet in Ottawa.

Prepared by: Aboriginal Rights and
Constitutional Development Secretariat.

THE CONSTITUTIONAL FORUMS:
AN OUTLINE OF PURPOSE AND TASKS

JULY 7, 1982

THE CONSTITUTIONAL FORUMS

FORMATION

The Constitutional Alliance has agreed to establish a Western Constitutional Forum (WCF), and a Northwest Constitutional Forum (NCF) for the general purpose of developing and promoting, on the basis of as extensive public consultation as is possible, the constitutional underpinnings of two separate territories to be created out of the existing Northwest Territories.

MEMBERSHIP

The WCF shall be made up of representatives of the Dene Nation, the Metis Association of the N.W.T., and the N.W.T. Legislative Assembly, including the Minister for Aboriginal Rights and Constitutional Development and a non-native Member of the Legislative Assembly to represent the interests of the non-native peoples of the Western N.W.T. The NCF shall be made up of representatives of the Inuit Tapirisat of Canada, and the N.W.T. Legislative Assembly, including the Associate Minister for Aboriginal Rights and Constitutional Development and a non-native MLA to represent the interests of non-native peoples in Nunavut. The Committee for Original Peoples' Entitlement shall have the option of sending representatives to either, or both, the WCF and the NCF.

TASKS

Within the context of the general purpose described above, the WCF and the NCF shall have the following tasks:

1. foster and formalize a process to conduct public discussion;

2. develop northern constitutional positions for each territory, in a form suitable for early legislative action, addressing among other things, the following concerns:

- a) protection of Aboriginal rights, including such rights as may be negotiated in comprehensive claims settlements;
- b) voting and residency requirements;
- c) division of jurisdiction between the Territorial and Federal Governments;
- d) **structure and style of government;**
- e) **financing; and,**
- f) amendment powers;

3. **initiate discussions with the Federal Government On northern constitutional positions** and attempt to secure consensus with the Federal Government on the course and substance of constitutional change; and,

4. address the Boundary issue;

5. set **priorities, timetable and budget*** for completing the above tasks.

TIMING

The WCF and the NCF shall set their own timetables for accomplishing their tasks, keeping in mind their respective timetables, the terms of the current **Legislative** Assembly and the Federal Parliament.

* It is anticipated that substantial funds will be required for the purposes of public consultations, meetings, technical assistance and discussions with the Federal Government, as well as special funding for COPE to enable the exploration of the options available to it.

Report of the first meeting of the NUNAVUT CONSTITUTIONAL FORUM

Frobisher Bay,
August 10th and 11th, 1982

August 10th

The Nunavut Constitutional Forum has discussed its tasks set out in An Outline of Purpose and Tasks of July 7th, 1982 and reached the following conclusions with respect to carrying out those tasks:

With respect to the fostering and formalizing of the process to conduct public discussion:

1. Federal contributions will be required for the process;
2. the process should involve as many individuals and interest groups as possible including municipal governments, regional councils and native organizations;
3. the process should culminate in a Nunavut-wide convention;
4. it would be desirable to establish a time-table for the process including a date for the convention;
5. as the final stage, the convention should review and ratify a detailed blue-print of the Nunavut constitution;
6. the Nunavut Constitutional Forum should give the responsibility for directing a staff to develop proposals for a constitution and to circulate the proposals to generate public reaction;
7. the Nunavut Constitutional Forum **should** establish **early-on** its visibility and credibility as an independent entity;
8. the exact **make-up** of the final convention should be as wide as possible with the details left to a later date;
9. the **forum** should try to meet in each region;
10. the process of **public** discussion should give greatest weight to issues of widest **interest** to the public including such matters as the capital, the form and style of municipal government, the symbols of government, the residency requirements, and the role of a commissioner;
11. the **Nunavut** Constitutional Forum accepts, responsibility for **all** technical, **legal** and **financial** issues that may be of less immediate public interest;
12. the **Nunavut Constitutional** Forum will keep a detailed record of the process of public consultation;
13. even **though** COPE representatives have not participated in this particular NCF meeting, the **Nunavut** Constitutional Forum **reiterates** its invitation and hope for COPE to participate in **the future**.

With respect to the development of constitutional positions on a **Nunavut** territory:

1. The **forum will** assume responsibility for the preparation, circulation and discussion of supporting materials and detailed positions suitable for incorporation in the Nunavut constitution;
2. the **Nunavut Constitutional** Forum agrees that the constitutional position ratified by the constitutional convention be either in legislative form or be capable of being easily rendered into legislative form;

3. the forum will develop proposals on all matters touching 'upon' the creation of a Nunavut territory and a Nunavut government including:
 - a. protection of aboriginal rights, including such rights as may be negotiated in comprehensive claim settlements;
 - b. voting and residency requirements, and constituency boundaries;
 - c. division of jurisdiction between the Territorial and Federal Governments;
 - d. structure and style of government;
 - e. financing; and,
 - f. amendment powers.
4. the **Nunavut** Constitutional Forum will identify and research a number of options for the division of jurisdiction between the Nunavut government and the Federal Government and such options shall conform to realistic limits of political expectations; and
5. in working on the structure and style of the Nunavut government. the forum will consider the status of language.

With respect to the initiation and pursuit of discussions with the Federal Government and the **attempt** to secure consensus with the Federal Government on the course and substance of constitutional change, **it** was decided that:

1. **the Nunavut** Constitutional Forum urge the federal government to make an early and public commitment to the division of the Northwest Territories and the details of the Nunavut constitution be left open for further work by the Nunavut Constitutional Forum
2. the Nunavut Constitutional Forum **urge** the Federal Government to abandon the proposition that regional government within the Northwest Territories is in itself an **alternative** to division;
3. the Nunavut Constitutional Forum will take the opportunity to brief Senator Jack Austin about the **role** of the Nunavut Constitutional Forum and the discussions at this meeting;
4. the Federal Government will be requested through Senator Austin to establish a core group of Ministers and senior officials with whom the Nunavut Constitutional Forum can pursue its discussions on an ongoing basis;
5. the Nunavut Constitutional Forum **will** attempt to direct its discussions with the Federal Government on the boundary issue through the constitutional alliance; on all other constitutional issues the **Nunavut** Constitutional Forum feels free to engage in direct discussions with the Federal Government;
6. in discussions **between** the **Nunavut** Constitutional Forum and federal Ministers, the Nunavut Constitutional Forum delegation will include an **MLA** and **the** President of **ITC** or his delegate;
7. the Nunavut Constitutional Forum **will** approach the Federal Government to make financial contributions to its operations.

With respect to the boundary Issue:

1. **the Nunavut** Constitutional Forum supports the position that **the** boundary issue be resolved in the north and in advance of a constitutional convention for Nunavut;

2. The Nunavut Constitutional Forum proposes a three-part approach to the resolution of the boundary issue; the first part involves discussions among aboriginal groups effected by the location of the boundary; the second part shall simultaneously involve the dissemination of information about the main features of a Nunavut government; the third part shall involve an independent boundary commission acceptable to all members of the constitutional alliance and the Federal Government to enquire formally into the matter and make recommendations to the constitutional alliance and the Federal Government; the first part should take no longer than three months and a boundary commission should be in place no later than May 1983.

With respect to the setting of priorities and a timetable:

1. the work on details of a Nunavut constitution and the resolving of the boundary issue should take place at the same time and should conclude in advance of a Nunavut constitutional convention;
2. the Nunavut constitutional convention will take place in September 1983;
3. the Nunavut Constitutional Forum is determined to secure the necessary funding and personnel immediately.

The Nunavut Constitutional Forum underlined its determination to take a lead role to bring about a popularly-espoused, technically-sound, draft constitution within a tight time-table for action.

TERMS OF REFERENCE--NUNAVUT CONSTITUTIONAL FORUM SECRETARIAT

Administrator

Purpose

To administer the overall secretariat by handling of financial co-ordinating meetings and meeting deadlines on research and community liaison needs.

Responsibilities

- financial control
- co-ordinate administrative needs in the office
- planning internal and external meetings "
- plan strategy for public consultation
- co-ordinate legal materials for research
- provide support for NCF and leadership
- assist in information required to carry out secretariat objectives to the public and government officials
- provide day-to-day contact to and from the interest groups
- to provide guidelines necessary to carry out the responsibility of the secretariat
- assignments required from time to time-by the NCF "

Research Co-ordinator

Purpose

The Research Co-ordinator shall, subject to continuing direction from the Nunavut Constitutional Forum (NCF) perform the following functions:

- a. identify research needs associated with the development of a draft Constitution for Nunavut and develop a plan for the completion of work required to meet such needs, paying particular attention to research needs in the following areas: Constitutional law, entrenchment of a land claims settlement and linguistic and cultural rights, administrative law, taxation, fiscal relations and resource law;
- b. upon approval by the NCF, co-ordinate the carrying out of such a plan;

- c. supervise the completion of any legal or technical drafting required through such a plan;
- d. engage in on-going discussions with-officials of the federal government about matters of a technical nature that are of concern to such officials; and,
- e. such other functions as may be assigned from time to time by the NCF.

Community Co-ordinator

Purpose

Reporting to the NCF administration, the community Co-ordinator will be based in Nunavut and will have the prime responsibility of ensuring that information related to the development of a draft constitution for a Nunavut government and resolution of the boundary issue is prepared and distributed to all communities, organizations and households in Nunavut. He/she will be responsible for presenting complex material in such a way as to be easily understood by laymen and having this material translated into Inuktitut.

Responsibilities

- prepare periodic newsletter
- prepare information bulletin, by major subject, on the draft Constitution
- arrange and supervise translation of material into Inuktitut
- arrange for the publication and-distribution of the finalized draft Constitution
- plan and organize the Constitution Convention
- visit communities to inform and update residents on progress
- advise NCF on appropriate public relations
- function as public affairs officer by liaising with news, arranging news conferences and issuing press releases

NOTES

WESTERN CONSTITUTIONAL FORUM MEETING

CARIBOU ROOM
YELLOWKNIFE INN

SEPTEMBER 07 & 08, 1982

WESTERN CONSTITUTIONAL FORUM

TENTATIVE AGENDA

Yellowknife Inn
September 7 & 8, 1982

1. Review of last Alliance meeting.
2. Adopt agenda.
3. WCF Terms of Reference.
4. General Constitutional Development process.
5. Constitutional development timeframe.
6. WCF budget - including administrative needs.
7. Job assignments, deadlines, next meeting, etc.

IN ATTENDANCE:

Legislative Assembly

Bob MacQuarrie
James J. Wah-Shee

Dene Nation

Herb Norwegian, Vice president

Metis Association

Al Wilson, Yellowknife (Local) Board of Directors.

ABSENT:

C.O.P.E.

Peter Green
Sam Raddi

The meeting began at 2:00 PM with inquiries from both the Dene Nation and Metis Association representatives as to whether C.O.P.E. would be attending. The Chairman, Mr. James Wah-Shee, explained that C. O. P.E. was invited and that he received a call this morning that they would not be attending due to other commitments.

After Members adopted the agenda, Mr. Wah-Shee briefly reviewed the last Constitutional Alliance meeting of July 06 & 07, 1982. Members were brought up to date on the, as yet, unsuccessful efforts to meet with federal officials to discuss constitutional issues. Mr. Dwight Noseworthy, briefly reported on the Nunavut Constitutional Forum meeting of August 10 & 11, 1982 in Frobisher Bay.

Western Constitutional Forum - Terms of Reference

The Western Constitutional Forum (WCF) Members reviewed a draft Terms of Reference document. Mr. Bob MacQuarrie proposed a major change to paragraph 3 which would ensure that, through himself, the non-native population would be formally included in the Forum's consensus decision making process. Other minor changes were made to paragraphs 1 and 7. The revised Terms of Reference was approved.

Constitutional Development Process

A draft document outlining a constitutional development process for the western arctic was tabled. With some changes, a 10-step process was adopted.

Constitutional Development Action Plan

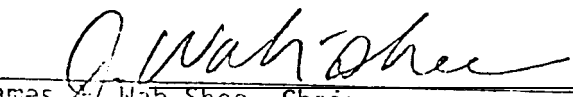
A draft 4-phase Action Plan for western constitutional development was tabled and discussed. After some discussion and minor revisions the action plan was adopted.

Western Constitutional Forum Budget

Members of the WCF presented very rough estimates of their constitutional development funding requirements totalling \$2,025,000. It was pointed out that

the Nunavut Constitutional Forum (NCF) budget totalled over \$900,000 and our process is much more complicated. C.O.P.E. would be asked to prepare a budget proposal and a staff committee would review for overlaps and consolidate for the next Western Constitutional Forum meeting on September 28 and 29, 1982.

fleeting Adjourned 12:03 PM.


James Wah-Shee, Chairman.

WESTERN CONSTITUTIONAL FORUM

TERMS OF REFERENCE
CONSTITUTIONAL DEVELOPMENT PROCESS
CONSTITUTIONAL DEVELOPMENT ACTION PLAN

SEPTEMBER 8, 1982

TERMS OF REFERENCE

THAT:

1. The Western Constitutional Forum (WCF) develop and promote, on the basis of as extensive public consultation as possible, a constitution for a Western Territory to be created out of the existing Northwest Territories, addressing among other things, the following:
 - (a) Protection of aboriginal rights, including such rights as negotiated in comprehensive claims settlements;
 - (b) **Voting and residency requirements;**
 - (x) Division of jurisdiction between the territorial and federal governments;
 - (d) Structure and style of government;
 - (e) Financing; and
 - (f) Amendment powers.
2. The Western Constitutional Forum will foster and formalize a process to conduct public hearings, discussions and input.
3. Fundamental and major WCF decisions on procedure and on constitutional issues will be made on the basis of consensus, and further, that no position will be represented as a position of consensus unless and until it has been agreed to by the Minister of Aboriginal Rights and Constitutional Development on behalf of the GNWT, and by each of the representatives for the Dene, the Metis, the Inuvialuit (when and if they choose to participate) and the non-Native population.
4. WCF positions on constitutional development will be referred to the various constituencies represented on the Forum for ratification before any attempt is made to negotiate these positions with the Government of Canada.

5. The WCF will initiate discussions with the federal government on northern constitutional positions and attempt to secure a consensus on the course and substance of constitutional change.
6. All WCF meetings other than occasional and specifically identified strategy meetings will be held in public.
7. The constitution formulated as a result of the work of the WCF will be placed before the people of the Western N.W.T. for ratification prior to being enacted by Parliament.
8. The WCF and the Nunavut Constitutional Forum will meet together from **time to time** as the Constitutional Alliance to:
 - (a) **address** the boundary issue;
 - (b) **develop** other positions of mutual interest; and
 - (c) negotiate agreed on positions with the Government of Canada.
9. The WCF will set its own priorities, timetable and identify and secure resources necessary for completing its mandate.

CONSTITUTIONAL DEVELOPMENT PROCESS

- Step 1. WCF to develop draft set of founding principles and concepts.
- Step 2. Hold public hearings to discuss founding principles.
- Step 3. Review and ratification of founding principles by WCF member constituencies.
- Step 4. WCF to direct Constitutional experts to flesh out a proposed constitution.
- Step 5. WCF review of proposed constitution,
- Step 6. Hold public hearings to discuss proposed constitution.
- Step 7. Review and ratification of proposed constitution by WCF member constituencies.
- Step 8. Public ratification of the proposed constitution.
- Step 9. Negotiation with Government of Canada.
- Step 10. Parliamentary enactment of new constitution.

MESTERN CONSTITUTIONAL FORUM

Constitutional Development
Action Plan

PHASE 1. (Develop Founding Principles)

Action 1 - The WCF will develop a draft set of founding principles and concepts that will guide the development of a draft constitution,

Timing - To be completed by September 30, 1982.

Action 2 - The WCF will conduct an information program including public hearings and meetings designed to solicit public reaction and input on the draft founding principles.

Timing - To be completed by December 31, 1982.

Action 3 - The WCF will review and revise the draft founding principles based on public reaction and input.

Timing - To be completed by January 15, 1983.

Action 4 - Founding principles to be ratified by WCF constituencies.

Timing - To be completed by February 7, 1983.

NOTE : The N.W.T. Legislative Assembly is tentatively scheduled to sit in late January 1983 for a period of approximately six weeks.

PHASE 2. (Develop Draft Constitution)

Action 1 - WCF will work with constitutional experts to flesh out a draft constitution based on founding principles.

Timing - To be completed by March 31, 1983.

Action 2 - WCF constituencies to review, revise and adopt the draft constitution for public discussion purposes.

Timing - To be completed by May 31, 1983.

NOTE: The N.W.T. Legislative Assembly is tentatively scheduled to sit in mid-May for approximately three weeks.

It is also anticipated that this draft constitution will also include an already acceptable territorial boundary and name.

PHASE 3. (Develop and Ratify a Proposed Constitution)

Action 1 - WCF will conduct an information program including public hearings and meetings designed to solicit public reaction and input on the draft constitution.

Timing - To be completed by August 31, 1983.

Action 2 - WCF will review and draft a proposed constitution based on public reaction and input.

Timing - To be completed by September 15, 1983.

Action 3 - WCF constituencies to adopt the proposed constitution for negotiation purposes with the Government of Canada.

Timing - To be completed by October 15, 1983.

NOTE The N.W.T. Legislative Assembly is tentatively scheduled to sit in September or October 1983. This will be the final session of the 9th Assembly.

Action 4 - Western N.W.T. public ratification of the proposed constitution.

Timing - **To be completed** by November 30, 1983.

PHASE 4. (Negotiation, Ratification and Enactment of new constitution)

Action 1 - WCF will conduct negotiations with the Government of Canada on a Constitution for the western N.W.T.

Timing - To be completed by March 31, 1984.

Action 2 - Parliament of Canada to enact new Western N.W.T. Constitution Act.

Timing - To be completed by December 31, 1984.

WORKING PAPER

for the Second Western Arctic Constitutional Conference

September 14-16, 1982

**Prepared for the Special Committee
on Constitutional Development**



**Northwest
Territories Legislative Assembly**

DISCUSSION PAPER ON THE
DENENDEH GOVERNMENT PROPOSAL

PREPARED BY:
ABORIGINAL RIGHTS AND CONSTITUTIONAL DEVELOPMENT SECRETARIAT
FOR THE
SPECIAL COMMITTEE OF THE LEGISLATIVE ASSEMBLY
ON CONSTITUTIONAL DEVELOPMENT

SEPTEMBER 1, 1932

DISCUSSION PAPER
ON THE
DENENDEH GOVERNMENT PROPOSAL

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I. INTRODUCTION

The Legislative Assembly's Special Committee on Constitutional Development distributed a pamphlet to the public this summer comparing the Government of the Northwest Territories and the Denendeh Government Proposal. The pamphlet also briefly outlined ten major issues related to the Denendeh proposal that will be discussed in more detail at this conference.

This discussion paper was developed to give more information on those ten issues and to assist in orderly discussion of these issues. The committee hopes this conference can reach a common understanding of these issues and make specific recommendations for us to present to the Legislative Assembly.

First, we should make clear the role of the Legislative Assembly's Special Committee on Constitutional Development and where it fits in the over-all process of constitutional change in the Northwest Territories . The following is a verbal description of the over-all process. On page 4 there is a visual explanation.

The Legislative Assembly believes that the Aboriginal associations in the Northwest Territories must participate fully in the process of political and constitutional change in their homelands. Thus , the Legislative Assembly is actively participating on a Constitutional Alliance with the major Aboriginal associations, namely: the Inuit Tapirisat of Canada; Committee for Original Peoples' Entitlement; the Metis Association of the Northwest Territories; and, the Dene Nation. The Alliance membership includes two repre-

representatives from each of those Aboriginal associations and four MLA's, including two non-native MLA's, representing the Legislative Assembly.

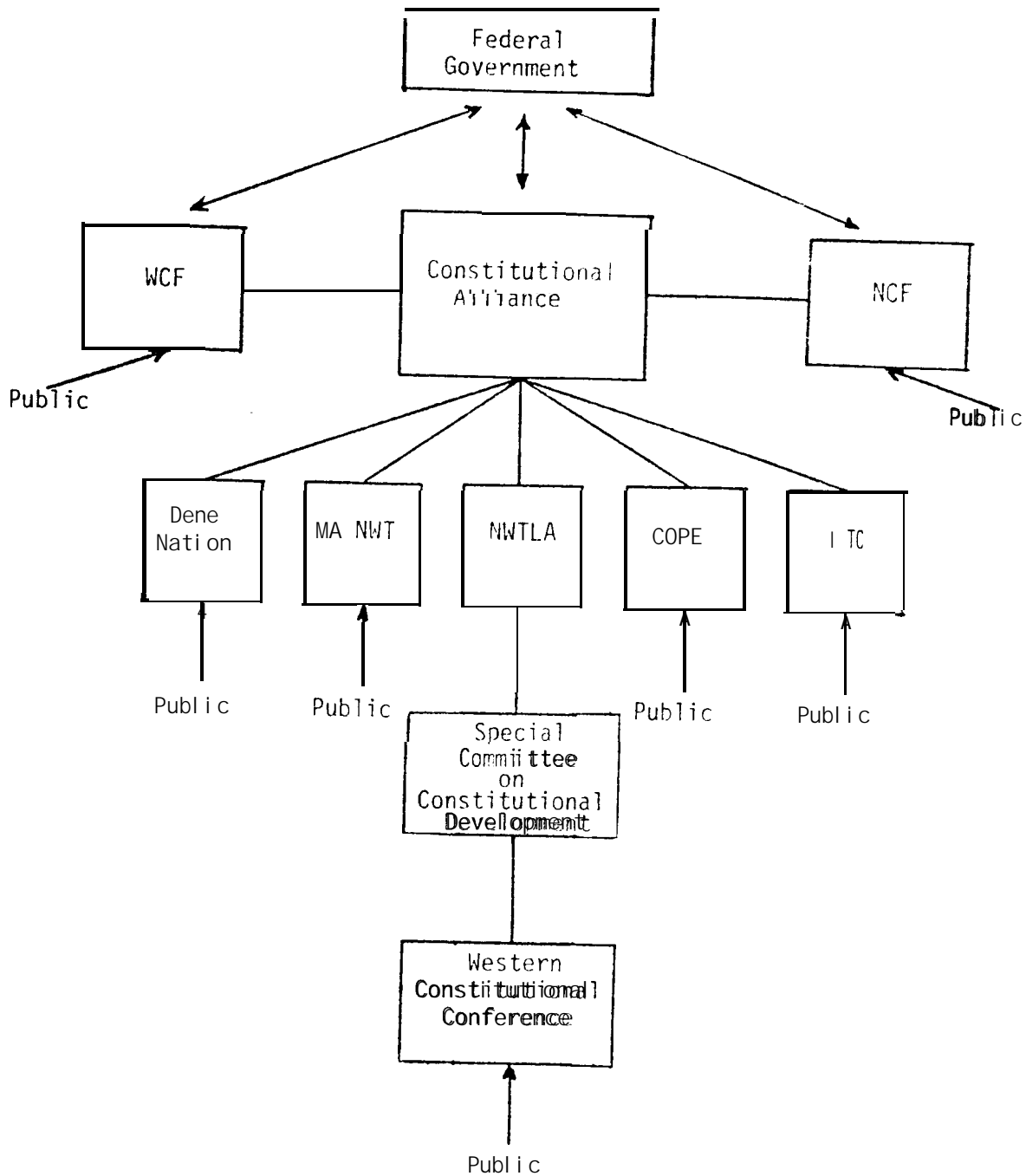
In response to the plebiscite vote in favour of dividing the Northwest Territories into two separate territories, the Alliance created a Nunavut Constitutional Forum and a Western Constitutional Forum which are responsible for developing and implementing the constitutional framework for each new territory. The two Forums will meet together as an Alliance from time to time to coordinate efforts and develop common positions on certain issues, such as the boundary between East and West.

The members of each Forum will consult with their memberships and the public and bring positions to the Forum or Alliance meetings where a common position will be agreed on. Each Forum also may hold public hearings. All major common positions must be agreed on by the Legislative Assembly and the Directors or Assemblies of the Aboriginal groups before being presented to the Federal Government.

The Special Committee on Constitutional Development is the Legislative Assembly's way of consulting with the people of the Western Northwest Territories. After public consultation, the committee will make recommendations to the Legislative Assembly. The Assembly will debate the committee's recommendation and develop positions for its four representatives to take to the Constitutional Forums or Alliance meetings.

These various mechanisms put into practice the Constitutional Alliance's adopted position that constitutional and political change must come from within the Northwest Territories through an active public process.

Northwest territories Constitutional Development
Organizational Chart



- NOTES :
- * The Legislative Assembly representation on the Constitutional Alliance is 4 MLA's including 2 non-native members.
 - * COPE's 2 representatives on the Constitutional Alliance can sit on either or both Forums until the boundary is agreed on.

II. PRINCIPLES

Before dealing with any subject as complex as political and constitutional change, there is a need for some broad principles as a basis for the discussion. Six principles are suggested in the Government of the Northwest Territories discussion paper "Our Land, Our Future" as being fundamental to political and constitutional development in the North today:

1. Government decision making should rest as closely as possible with those governed.
2. Every level of government in the Northwest Territories must have sufficient power, authority, and resources available vested in it to enable it to carry out its responsibilities.
3. Government should be representative of and accountable to the people of the Northwest Territories.
4. Residents of the Northwest Territories should enjoy political rights and privileges equal to those enjoyed by other Canadians.
5. Residents of the Northwest Territories should assume the major responsibility for determining the constitutional framework of the Northwest Territories and the direction of political change within that broad framework.
6. Rights and freedoms granted in aboriginal claims settlements must be protected in law.

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---- Agreement on these fundamental principles can be a meaningful first step in developing democratic public government for the Western Northwest Territories.

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III. COMPARISON - DENENDEH GOVERNMENT/GOVERNMENT OF N, W, T,

To compare the Denendeh Government proposal and the current Government of the Northwest Territories, please refer to the center pages of the pamphlet prepared by the Aboriginal Rights and Constitutional Development Secretariat on behalf of the Special Committee on Constitutional Development.

IV, DISCUSSION OF IDENTIFIED MAJOR ISSUES

The principle task of the Special Committee is to stimulate discussion and solicit public input. This input is necessary to develop a government designed by all Northerners that reflects our unique Northern community and, at the same time, has specific features to protect and enhance the rights of native people. This section will guide our discussions through those features set out in the Denendeh government proposal. In developing recommendations we will be restricted in many cases by existing constitutional practices and restraints. Some parts of the Denendeh proposal challenge these practices and restraints and we must, therefore, be aware of these from both a legal and a political point of view.

1. DENENDEH SENATE

- A) PURPOSE/PRINCIPLE: In order to protect and enhance the aboriginal rights of the Dene and Metis for the future, special powers and institutions serving this purpose must be a part of the new political system.
- B) DESCRIPTION: The Denendeh Senate would be made up exclusively of Dene and Metis, elected only by them. It would have power to refuse to pass legislation that it determined would adversely affect aboriginal rights as defined in the final claims settlement. The Senate will list its objections and return the legislation. The revised legislation will be sent back to the Senate. The Denendeh Senate also would have power to set up and run institutions created to manage Exclusive Dene Lands and resources.
- C) DISCUSSION: The idea of having a Senate in Denendeh is not a new one, in Canada or elsewhere. Under Section 71 of the Constitution Act, 1867, the legislature in Quebec was to be composed of two houses; this was only changed recently. Similarly, in 1876 the constitution of Manitoba called for a bicameral legislature. All Provinces have now abolished the Upper House, but the idea has been maintained and supported by keeping the Senate in our federal Parliament. In the United States, both federal and state legislatures have an elected Senate (except Nebraska).

The Senate's role in counterbalancing the otherwise complete power of the Commons is a well-accepted principle of democratic federalism. Thus, the idea of a Senate in the constitutional makeup of the North is neither radical nor archaic. The Denendeh proposal suggests the Senate would play a vital role in the government of Denendeh, especially in protecting aboriginal rights. While the intention is not controversial, the specifics pose two critical and inter-related problems: the selection process of the members of the Senate; and, the extent of the powers of the proposed Senate.

The Denendeh proposal says only Dene may qualify for Senate membership. The details of the selection process are not defined. Theoretically, there must be a limit on the number of Senators, particularly if they are to receive remuneration out of public funds. The method of choosing a Senate is not really an issue - Senators are elected in the United States but appointed in Canada - but it should be clarified and entrenched in the Constitution to avoid arbitrariness and political consideration.

Limiting the Senate to exclusively Dene membership would not create an institution that is normally regarded as a Senate, and may be contrary to the anti-discrimination clause [Section 15(1)] in the Charter of Rights and Freedoms because eligibility would be based on ethnic origin. If the Senate was to be open to all citizens of Denendeh and its membership not based on

race, then a bicameral house could be established. But the intent in the Denendeh proposal is to safeguard aboriginal rights, not to set up a Senate in the traditional parliamentary sense. It would be more appropriate to avoid using the term "Senate" to describe the proposed body whose role is basically that of a watchdog agency. The proposed Dene Senate is not in any traditional way concerned with the normal duties and responsibilities of an Upper House and the use of the term Senate is confusing.

But if the Dene Senate is thought of as a review Board with powers to restrict any proposed legislation affecting aboriginal rights, the idea takes on more substantial implications. There are many precedents for such analysis of proposed laws. Most provincial governments and the federal government have proposed legislation reviewed by committees (or the Senate) to ensure it does not violate other guaranteed constitutions,¹ or statutory rights, for example international human rights conventions which we have signed, the Bill of Rights and the Charter of Rights and Freedoms. Screening legislation to make sure it reflects certain standards or beliefs is not new and could be done by a Dene "Senate".

To sum up - there is a general principle that can readily be supported without offending constitutional tradition: A Dene institution can be created and entrenched in the Constitution of the Territory (or Province) whose role is to

preserve and protect aboriginal rights.

The second problem is perhaps more difficult to reconcile with current Canadian practices - the powers of the Senate. As the only elected body which represents the total population, the national assembly is the body ultimately responsible to the voters. The supremacy of Parliament is a time-honoured principle of Canadian democracy and will be hard to displace.

The role of the proposed Senate conflicts also with the normal role of the Courts as the final arbiter of disputes involving the interpretation of statutes and interpreter of the Constitution. The Courts have proven reluctant to surrender the power of protecting the rights and civil liberties of the citizens of Canada. Statutory restrictions on the right of appeal to the Courts have consistently been circumvented by the courts. It would be a substantial deviation from normal practices if the Senate, rather than the Court, was made the final voice in matters involving aboriginal rights.

Thus, it may be more appropriate to entrench an aboriginal institution in the constitution of the territory to preserve and protect aboriginal rights. The powers of that institution could be similar to a review-agency or administrative board with right of appeal to the Courts.

Another alternative to achieving the goal sought by the Dene is to have aboriginal rights clearly defined in the constitu-

tion and have the "Senate" charged with protecting these rights by overseeing legislation. But if a dispute arises as to whether a statute actually infringes upon these rights, the matter would be sent to the Courts for a decision. The Court has the necessary impartiality and legal knowledge to make such decisions. Experience has shown that statutes give rise to many subtle and varied interpretations and these cannot be effectively understood unless interpreted **by** an independent judicial body.

2. RESIDENCY REQUIREMENTS

- A) PURPOSE/PRINCIPLE: Political decisions affecting Northerners must be made by those who have to live with the consequences - the long-term residents.
- B) DESCRIPTION: It is proposed that in order to be eligible to vote or hold office in Denendeh, a person must have lived in the Territory for ten years as well as in the community for two years.
- C) DISCUSSION: The 10-year residency proposal has been studied in detail and it seems a three-year residency requirement now is being looked at. The North's unique characteristics may mean that a three-year requirement would possibly be upheld by the Courts.

The Charter of Rights and Freedoms in the Constitution Act, 1982, guarantees basic democratic freedoms for Canadians. Section 3 says:

"Every citizen of Canada has the right to vote in an election of members of the House of Commons or for a legislative assembly and to be qualified for membership therein. "

It is not clear whether a three-year or longer residency clause would infringe this section of the Charter. But it is possible such a requirement would be found acceptable under the general wording of Section 1 of the Charter, which states:

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The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society."

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It can be argued that a three-year residency requirement in the North is justified because of the North's unique characteristics, such as the large numbers of Southern workers who would be brought in to work on energy mega-projects.

Currently, the maximum residency requirement in Canada is one year in Quebec, the Northwest Territories, Yukon, British Columbia, Ontario, Prince Edward Island and Newfoundland, and six months in the other provinces.

It should be noted that the Canadian Constitution gives the provinces and territories power to set residency requirements. The only restrictions on that power are those set out in the Charter.

If the matter comes to the courts, the courts may look at the possibility that long residency requirements would be made law across Canada, thus removing the vote of many Canadians. The courts, however, could look at the North's unique situation as valid reason for a longer residency requirement here, recognizing that what is reasonable in the South may not be reasonable in the North.

American courts have rejected attempts to impose long residency requirements. However, Canadian courts may not follow the American example because Canada's political, historical and judicial pattern of development is very different from that of **the** United States.

To **sum up** -- A residency clause longer than one year may be rejected by the Courts. But the fact that the situation in the Northwest Territories is unlike that in the South may justify a longer requirement.

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5. CHARTER OF FOUNDING PRINCIPLES

- A) PURPOSE/PRINCIPLE: A Denendeh government must embody the values of the Dene and reflect their style and form of political organization.
- B) DESCRIPTION: A Charter of Founding Principles for Denendeh would entrench the rights of Dene, Metis and other Canadians to establish government funded institutions and services to reflect their respective values and ways; entrench native and english languages; entrench the harmonious relationship of the Dene with the physical environment as the basis for environmental laws; entrench a decision-making process whereby development projects ensure the total well-being of the people and resources of Denendeh; and entrench other individual or collective civil and political rights. **Voters** and office holders must pledge to uphold this Charter. (See Appendix A for Charter.)
- c) DISCUSSION: A pledge or oath of loyalty is made to the state, that is, to the Queen as legal head of Canada. There is no precedent in Canada for swearing allegiance to a list of principles.

The emotional connotations of the word "pledge" may obscure the intent of the proposal.

The founding principles can be entrenched in the constitution of a new government and thus become law. As such, all citizens

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must uphold these principles without choice or a pledge.

Any violation would be subject to scrutiny by the courts and the penalties thereto. Both public agencies and private acts would be bound by the entrenched principles. Translating principles into legal rights or guarantees could achieve the goals of the Dene without requiring a pledge.

4.

4. NATIONAL AND COMMUNITY COUNCIL ASSEMBLY SYSTEM

- A) PURPOSE/PRINCIPLE: To follow Dene tradition and to increase the rights of all residents of Denendeh, government by the people rather than government by representatives should be encouraged.
- B) DESCRIPTION: The National or Denendeh Assembly and the community assembly will have clear legislative authority to set policy and make decisions on major issues within their jurisdictions. The government of Denendeh and the community councils would carry out policies and instructions of their assemblies and make laws within their jurisdictions. All laws must conform to the Charter of Founding Principles.
- C) DISCUSSION: There appears to be a general consensus on the benefits of more direct community participation in the political process. The Dene proposal is flexible on how the elected Council would be chosen and their alternatives reflect basic democratic principles.

Implementing such a system in large communities may be difficult. Frequent attendance by the whole community may be hard to achieve and the result may be that only a few residents control decision-making. Also, if referendums are used frequently, it may be difficult for decisions to be made promptly as situations develop and change.

Under the Canadian Constitution, specific areas of power or authority are granted to the provinces and others to the federal government. They are, for the most part, mutually exclusive. Generally, in section 91, the federal parliament is given power over matters of national importance, such as shipping, currency and trade and commerce. The provincial legislatures, under section 92, are given the power to make laws in relation to matters of a local or private nature, such as property and civil rights, licensing and direct taxation. In particular, the provincial legislatures, in s. 92(8) are given power to make laws in relation to "Municipal Institutions in the Provinces". As a result, local and municipal governments are a provincial matter. The same power is given to the Northwest Territories in section 13(c) of the Northwest Territories Act which gives the Northwest Territories legislative power to make laws in relation to:

"... municipal institutions in the Territories, including local administrative districts, school districts, local improvement districts and irrigation districts . . ."

Thus, as the situation now exists in the Northwest Territories, the community council derives its power from the territorial government. If the Northwest Territories was a province, community councils would get their powers from the provincial legislature. The community council, being a delegate of the territorial or provincial legislature, cannot have more or

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greater powers than those given to the province or territory by the constitution.

The Dene proposal is unique to Canadian constitutional traditions in that it proposes to give community councils exclusive power in some areas not derived from the territorial/provincial legislature. Such an idea is new and would require a change in the Northwest Territories Act or a different type of provincial constitution upon achieving that status.

As the situation now stands, powers given the community council cannot be greater than those of the province or territory of Denendeh. Any community laws which conflict with either territorial or federal laws would be declared invalid by the courts. The councils can only be delegated powers by the territorial government and these powers must not infringe upon areas granted exclusively to the federal government.

The concept of exclusive community government jurisdiction is new to Canada, but, the division of community/provincial powers outlined in the Denendeh proposal could be incorporated into a Federal act establishing a Denendeh government. However, if provincial status is also to be obtained, the provincial governments now have a voice in the creation of a new province and its constitution.

5. GUARANTEED REPRESENTATION

A) PURPOSE/PRINCIPLE: The political system proposed is based on the fact that the Dene are the original inhabitants and their descendants are still the majority of permanent residents in the area, and are thus entitled to a form of public government reflecting that majority. There is recognition, however, that at some time in the future the descendants of the Dene may be a minority in their homeland. It is assumed, although not all that clear, that guaranteed representation is sought to provide them with a continuing voice in the government of their homeland in perpetuity.

B) DESCRIPTION: In communities where the Dene, now or in the future, are a minority of the eligible voters, the community council will be selected in the following way:

- i) a certain number of councillors will be elected by a ward system election with one ward for each 300 residents to a maximum of 15 wards. All eligible to vote in the ward election;
- ii) the Dene will be guaranteed 30% of the total number of council seats. Only the Dene will vote for these members of council.

The National Assembly will be the major political body at the territorial level of government. The Dene will at all times hold 30% of the seats in the National Assembly. If

their number of seats should fall below 30% the eligible Dene voters will, in a manner determined by the Senate of Denendeh, elect sufficient Dene members to bring their number of seats to the guaranteed level. of 30%.

- c) DISCUSSION: The guaranteed representation sought by the Dene is not against Canadian tradition. Quebec has constitutional guarantees reflecting its predominantly French population. In other Commonwealth countries, for example, New Zealand and India, minority groups have a guaranteed number of seats in the legislature. Appendix B gives a brief outline of similar arrangements in other countries. In each case it seems that the purpose is to guarantee minority or tribal groups a voice in the government of their country or homeland.

The Denendeh proposal for guaranteed representation in Denendeh poses some potential problems. There is no difficulty in principle with the idea of guaranteeing the Dene a voice in government. But using guaranteed representation to retain substantial control over government in Denendeh could run into difficulties with the principles of representative government. This intention of the proposal is not clear.

As well, it may be difficult to reconcile the two concepts of public government and representative government. In the Denendeh proposal, the people would have ultimate authority

either by referendum or direct participation, and elected representatives would just carry out the peoples' decisions. Non-native communities may prefer reliance on elected members to represent their views. It is difficult to say if these two kinds of government can be brought together within one system and be effective.

Several other factors should be considered in implementing the principle of guaranteed representation. The principle should provide guarantees for both native and non-native populations if appropriate. The principles of "one man, one vote" and of elected members' accountability to the electorate at large, not to just one particular group of people, must be observed. The ratio of seats guaranteed for any one group to those available in the Assembly as a whole must be examined carefully to ensure that representation reflects the makeup of the population as a whole. The injection of a party system would certainly make this a real issue. However, if the principle of guaranteed representation described in the Denendeh proposal is interpreted as being a means to ensure a voice in the National Assembly and not to ensure substantial control of the legislative power regardless of population, then these factors will be less important.

6. DENE HERITAGE FUND

- A) PURPOSE/PRINCIPLE: Will ensure legislative protection for a long-term source of revenue to meet Dene needs and aspirations .
- B) DESCRIPTION: The Dene will attempt to secure 10% of all government resource revenues as part of their aboriginal settlement. The constitution will authorize the Denendeh government to collect this money for the Dene and deposit it into a Dene Heritage Fund.
- c) DISCUSSION: The Denendeh proposal does not make it clear whether the Dene Heritage Fund is to be made up of money collected by the Dene through an aboriginal rights settlement or of money collected out of government revenues in addition to the claims settlement. The first possibility presents no problems, but the second possibility may violate the Charter of Rights and Freedoms. As well, it is not clear whether the word government used in the plural means contributions from community, federal and provincial/territorial governments, or just one level of government.

If this fund involves money additional to the claims settlement, it may run afoul of the Charter of Rights and Freedoms. This Act, which is now part of the Canadian constitution, forbids any government from discriminating, either by law or practice, on the basis of a number of criteria, including

race and ethnic origin. To set up such a fund on a perpetual basis would probably violate the Charter.

To have an act that provides a certain per cent of public money in perpetuity to any group may violate Section 15 of the Charter of Rights which states:

15.(1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

This heritage fund contemplated, unlike the Alberta Heritage Fund, is for a racial group as opposed to the benefit of all residents of a province.

There is no rationale advanced for this proposed fund. If the claims settlement is equitable, it should provide sufficient funds for the economic growth and security of the Dene. The legislative body responsible for dispersing taxpayers' money can certainly allocate funds to various groups or to affirmative action programs. However, this must be subjected to the normal legislative budget debate and decision-making process on individual requests and needs.

In summary, it is not clear how the Dene Fund would operate. If it is a source of revenue in addition to the

claims settlement, the constitution may prevent its implementation.

7. RESOURCE DEVELOPMENT DECISIONS

- A) PURPOSE/PRINCIPLE: Decisions concerning the development of non-renewable resources in Denendeh will be based on a "conserver society" need and will take into consideration needs of the environment, the Dene, the people of Denendeh, and their government.
- B) DESCRIPTION: The Charter of Founding Principles will entrench the harmonious relationship of the Dene with the physical environment as the basis for environmental laws, and will entrench a decision-making process whereby development projects ensure the total well-being of the people and resources of Denendeh (as opposed to the economic benefit of the developers).
- C) DISCUSSION: The idea of a "conserver" society is generally viewed as being necessary to the future welfare of the North and Canadian society in general. As always, trying to balance conservation and development poses a dilemma. Those people who must decide to conserve a resource also may be the people who would benefit most from development of that resource and could end up in the untenable position of both judge and beneficiary. It is a difficult role to support high principles when one's economic benefits may increase with the ignoring of such principles,

This is not to suggest that wrong motivations will prevail but rather that economic factors and individual needs will place constraints on the decision process.

8. LAND OWNERSHIP

A) PURPOSE/PRINCIPLE: To ensure that public and Dene ownership of land is maintained.

B) DESCRIPTION: Present titles to property ownership will be honoured, but in the future, property titles will only be granted by the government and native collective as long-term leases with occupancy rights. Within community boundaries, leasehold terms and conditions will be set by the community government. Beyond community boundaries, land leases will be negotiated with the owner, either the government of Denendeh or a native collective.

C) DISCUSSION: It is necessary to consider the relationship between the Dene and the land and how important this relationship is in Dene culture to appreciate this principle. To the Dene -- traditionally a hunting, fishing and food gathering people -- the land and its natural resources are for the benefit of all, to be used and respected and passed on to future generations. The concept of owning land is foreign and there is no need for private property. From this point of view, land is not a commodity to be bought and sold.

But private ownership of land is a privilege considered by many non-native people as being akin to an "inalienable right". To own property is one of the most common aspirations of Canadians and is generally pursued as the first and wisest major investment for families.

In reality, however, the British tradition has been typified by long-term leasing as a viable means of ownership. The 99 or 999 year leases were frequently used to transfer property but keep the reversion right in the family. In Canada, as elsewhere, the lease is the most common method for carrying on commercial activities. Thus, leasing rather than private ownership evokes a strong emotional response from non-native people despite the historical and current widespread use of the lease.

All land is vested in the right of the Crown (federally or provincially) and granting such land in fee simple ownership does not change this fact. Fee simple involves two basic rights: 1) the right to dispose of your property (by sale, lease, gift or will); and, 2) the right to be compensated for the value of your property should the Crown or its agencies require your lands. The Crown, using equitable methods, can always reclaim the lands even though they are granted in fee simple. In practice, long-term leasing does not vary from fee simple in this aspect.

A number of issues may complicate the process of leasing.

These may include the following:

- **the** drawing-up of leases require greater legal effort and expense;
- if a lease is not for a long period of time, uncertainty about future financial commitments may cause insecurity

and make planning difficult; and,
if the funds collected from leasing are to provide
income for the community, how are rates to be established
to anticipate future market conditions, inflation, etc.?

9. DENE RIGHT TO AMEND CONSTITUTION

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- A) PURPOSE/PRINCIPLE: The Dene descendants will preserve the right to negotiate any changes in Denendeh governing institutions.
- B) DESCRIPTION: A Denendeh constitutional amendment clause must preserve the right of Dene and Metis to participate as a collective in changing any governing institutions.
- c) DISCUSSION: The right of the Dene to participate in any changes that might affect the government or institutions of Denendeh is taken for granted. Many of the political and institutional mechanisms recommended in their proposal will facilitate this process. e.g. **Senate;** guaranteed representation; etc.

A specific clause requiring consultation would ensure Dene involvement , but the elected representatives or communities should still have ultimate control for major decisions.

10. STYLE AND FORM OF GOVERNMENT

- A) PURPOSE/PRINCIPLE: The political system proposed is based on the fact that the Dene and Metis are the original inhabitants and still the majority of permanent residents in this area, and are thus entitled to a form of public government reflecting that majority. Such a government must therefore embody the values of the Dene and reflect their **style** and form of political organization.
- B) DESCRIPTION: As discussed under issue 3, the proposed Charter of Founding Principles would entrench the special Dene relationship to the environment as well as a decision-making process to control resource developments. In the tradition of the Dene, government by the people will be encouraged rather than government by representatives. This is reflected in powers proposed for the community and National assemblies as well. as in the requirement to hold referenda on certain major decisions. Dene languages will become official languages **along** with English and French. Ceremonial trappings of government must reflect Dene customs and traditions.
- C) DISCUSSION: The methods of governing should recognize and enhance the cultural traditions of the people governed. Symbolic gestures are often more important to the public as they are the most visible expression of the style of government. The cultural diversity **of** the North should be reflected

in the ceremonial trappings of the legislature. To decrease the discomfort often felt by the Dene in current legislative formalities, changes should be enacted to encourage Dene dress, customs and beliefs. Such a proposal does not involve any sacrifice from the non-Dene. The legislative assembly can serve as an example to the public of the co-existence of diverse cultures in mutual respect.

Two other elements may be implicit in this proposal: 1) the stress on government by consensus; and, 2) greater accountability of the elected representatives toward the electorate (public government) .

It is not clear yet whether consensus-type government can work effectively in an increasingly large, complex and multi-cultural society. The principle of consensus is laudable but the practice may prove to be unworkable especially as the North grows in population and sophisticated expertise.

The goal of consensus - to achieve agreement through the recognition of the common good - is not that different from majority rule. Both systems use persuasion and try to gain support from the participants. In the consensus situation those opposed may not vote if they perceive themselves to be in a minority and thus consensus is achieved in appearance but not reality. In other words, it is possible that negative votes would not be recorded in a consensus situation but would be recorded in a majority situation. The practices may have

more in common than would appear at first glance.

Greater accountability is the goal of any democracy and this principle is shared by all cultural groups in Canada. Once again, problems may arise in implementing this goal rather than from the goal itself. It may be inefficient to have the flow of authority come directly from the populace on a frequently recurring basis. Effective government often requires quick decision and highly specialized expertise. These traits preclude the consultation with the public at large.

II. DIVISION OF POWERS

- A) PURPOSE/PRINCIPLE: The unique character of life of the Dene requires that certain powers now possessed by the federal government be transferred to Denendeh.
- B) DESCRIPTION: In addition to the usual powers given to a provincial government, the Denendeh Assembly seeks to have control over navigation and fisheries, family relations, communications, labour and employment, and diplomatic relations with all other aboriginal nations.
- C) DISCUSSION: As discussed earlier in this paper, there is a division of powers under our constitution between the federal and provincial legislatures. The Denendeh proposal seeks to move away from the traditional division of powers in having authority over some areas that fall into federal jurisdiction under S. 91 of the Constitution Act, 1867 to 1982. These areas are not granted under the N.W.T. Act and would not be granted to a Denendeh province unless an amendment was made to the Canadian Constitution. In other words, under the distribution of powers currently set out in our constitution, the Denendeh proposal seeks control over some areas of law that are exclusively in the federal jurisdiction.

The federal Parliament was given absolute jurisdiction over the territories by the Constitution Act, 1870. Section 4 of that Act states:

The Parliament of Canada may from time to time make provision for the administration, peace, order and good government of any territory not for the time being included in any Province.

As such, the federal Parliament has jurisdiction over areas that would normally be possessed by a provincial legislature. However, the federal Parliament has passed the Northwest Territories Act which delegates to the Northwest Territories legislature most of the powers possessed by the provinces. The Federal government has the power to give the government of Denendeh the additional powers it seeks.

If provincial status is granted, then one must deal with the traditional division of powers as set out in S. 91 and 92 of our constitution. Section 146 of the Constitution Act, 1867 is particularly relevant. It states:

It shall be lawful for the Queen ... on the Address from the House of the Parliament of Canada to admit Rupert's Land and the North-western Territory, or either of them, into the Union . . . subject to the Provisions of this Act.

The latter clause indicates that any new province of Denendeh would be bound by the division of powers set out in the constitution unless the constitution was amended.

'Such an amendment would require the support of the provinces but this probably would not be difficult. The idea put forward in the Denendeh proposal are not as radical as they might at first appear. The provincial governments have consistently argued for the transfer of many of the same powers to themselves from the federal government. It is quite likely that their support may be obtained in this endeavour.

In summary, at present there are constitutional constraints on the extent of the powers sought for the Government of Denendeh. To eliminate these barriers, the federal government can change the N.W.T. Act while the Northwest Territories remains a Territory or, the Constitution of Canada can be amended so that the Northwest Territories obtains those powers upon becoming a Province.

V. CONCLUSION

Recommendations from this conference and other similar meetings or hearings will be reviewed and consolidated by the Special Committee on Constitutional Development, and then presented to the Legislative Assembly for debate. Positions developed by the Assembly on the basis of these recommendations will, where appropriate, be conveyed to the Western Constitutional Forum where a common Western Northwest Territorial position will be developed. This may sound like a complicated procedure but all community interests in the West must participate in the process if we hope to develop a government that we can all feel comfortable with. It will be a long and sometimes difficult process that will require patience, understanding and good will on everyone's part. Thank you for participating in this conference.

APPENDICES

APPENDIX A

CHARTER OF FOUNDING PRINCIPLES

The Government of Denendeh will exercise its powers according to founding principles that are consistent with the Canadian Constitution and are set out in a *Charter of Founding Principles for Denendeh*. The Charter of Founding Principles will:

- (1) entrench the rights of the Dene and other Canadians to establish government funded institutions and services to reflect their respective values and ways in areas such as:
 - . education (from pre-school through university);
 - . health services;
 - . social services;
 - . arts;
 - . media;
 - . recreation and games;
 - . training in traditional skills and crafts;
- (2) entrench native languages, along with English as official languages in Denendeh;
- (3) entrench the harmonious relationship of the Dene with the physical environment as the basis for environmental laws;
- (4) entrench a decision-making process whereby development projects ensure the total well-being of the people and resources of Denendeh (as opposed to the economic benefit of the developers);

In addition, the Charter will contain rights and freedoms similar to those included in the International Covenant on Civil and Political Rights (which is signed by Canada). Sections 18, 19, 21, 22 read:

ARTICLE 18

- (1) Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom either individually, or in community with others and in public or private to manifest his religion or belief in worship, observance, practice and teaching.
- (2) No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
- (3) Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
- (4) The States Parties to the present Covenant undertake to have respect for the liberty of parents, and when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions,

ARTICLE 19

- (1) Everyone shall have the right to hold opinions without interference
- (2) Everyone shall have the right to freedom of expression: this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
- (3) The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only

be such as are provided by law and are necessary:

- (a) for respect of the rights and reputations of others;
- (b) for the protection of national security or of public order (*ordre public*), or of public health or of morals.

ARTICLE 21

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this **right** other than those imposed in conformity with the law and **which** are necessary in a democratic society in the interests of national security or public safety, public **order (ordre public), the protection of public health or morals** or the protection of the **rights and freedoms of others**.

ARTICLE 22

- (1) Everyone shall have the right to freedom of association with others, including the right to **form** and join trade unions for the protection of his interests.
- (2) No restrictions may be placed on the exercise of this right than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of **lawful** restrictions on members of the armed forces and of the police in their exercise of this right.
- (3) Nothing in this article shall authorize State Parties **to the International Labour Organization Convention of 1948 concerning Freedom of Association and Protection of the Right to organize to take legislative measures which would prejudice the guarantees provided for in that convention.**

Examples of Countries where various forms of
Guaranteed Representation is provided

1. New Zealand

- Parliamentary system of government closely patterned on that of the United Kingdom.
- No written constitution,
- Executive authority is vested in the 24-member cabinet led by the Prime Minister, the leader of the political party or coalition of parties that holds the majority of seats in Parliament.
- The unicameral Parliament (House of Representatives) has 92 members. 4 of whom must be Maoris elected on a separate roll (However, Maoris may also run and are elected as regular candidates to Parliament)
- Representatives are normally elected for a three-year term, although elections can be called sooner if necessary.

2. Denmark

- A limited or constitutional monarchy.
- According to the Constitution of 1953, the unicameral Folketing consists of not more than 179 members, two of whom must be elected from the Faeroe Islands and two from Greenland.
- Elections are held every four years, but the Prime Minister can dissolve the Folketing (Parliament) at any time and call for new elections.

ent.,

3. The Gambia

- Government is divided into independent executive, legislative, and judicial branches.
- Executive power is vested in a President who is popularly elected to a five-year term.
- The Vice-president, elected concurrently with the President, must belong to the same political party.
- The legislature is composed of 43 members, four of whom are elected by the tribal chiefs.
- The Attorney-General, appointed by the President, is an ex officio member.

4. Ghana

1979 constitution is essentially an amalgamation of the American and British systems.

It provides for three primary branches of government: a strong Executive, a unicameral parliament and an independent Judiciary headed by a Supreme Court.

- Additionally, a Council of State consists of respected elders and representatives of the major professions, whose duty is to advise the President on important matters, and an ombudsman, whose responsibility will be to investigate the other branches of government.

5. Sudan

- A permanent Constitution was promulgated on May 8, 1973, under which a new People's Assembly was elected.
- Half of its 250 members were elected on the basis of geographical representation, 100 were selected by various worker groups and mass organizations, and 25 were appointed by the President.
- In February 1980, the assembly was increased to 368 members, with the new seats being allocated principally to organized workers, farmers, and other occupational interest groups.

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SECOND WESTERN ARCTIC
CONSTITUTIONAL CONFERENCE

SUMMARY

SEPTEMBER 14-16, 1982
YELLOWKNIFE, N.W.T.

.....
PREPARED BY:
.....
ABORIGINAL RIGHTS AND CONSTITUTIONAL DEVELOPMENT SECRETARIAT

TOPICS FOR DISCUSSION

1. **Denendeh Senate**
2. Ten Year and Other Residency Requirement for National and Community Assembly.
3. **Pledge to Uphold Charter of Founding Principles.**
4. The **two-tier** Community Government (Council and Assembly)
5. The 30% Dene Seat Provision in Both Community and National Levels of Government.
6. Dene Heritage Fund.
7. Resource Development Decisions Based on a "Conservation Society" Need.
8. Private Property - Only Long-Term Leases in Future
9. Dene Right "To Negotiate Any Changes in Institutions Governing Our homeland"
10. Government in the Style and Tradition of the Dene
11. Division of Powers
12. **Role** of Political Parties
13. Role of Legislative Assembly in Constitutional Development
14. Any other Matters.

SUMMARY

Second Legislative Assembly Constitutional Conference
Yellowknife - September 14-16, 1982

DAY ONE

The first day of the conference consisted of various opening remarks, review of the agenda and presentation of positions from several community representatives. Many delegates felt that with the number of presentations to be made there would not be time to break up into workshop groups on the second day. They, therefore, agreed to continue **hearing** presentations and decide later whether to go into workshops or not. Towards the end of the first day it became clear that there was a lot of confusion **on** the political process necessary to gain real constitutional reform. Furthermore, delegates did not understand at what point a territory reached the point of becoming a province, thus, requiring consent of the provinces. The Minister of Justice, Mr. Braden, undertook to have his department prepare and deliver a paper comparing provincial and territorial powers. The Eighth Assembly's Position on Constitutional Development was requested and subsequently tabled to be used as a conference resource document.

The day wound up with an attempt by some delegates to have the press excluded from the second day's discussions. However, it was decided that the conference would be open to all, but that CBC would be asked to reduce the glare of TV lights.

DAY TWO

The conference **began with Mr. Stien Lal**, Deputy Minister of Justice and Public Services presenting his paper titled "Comparison of provincial and Territorial Powers." This presentation sparked many questions from delegates. There were questions concerning how Alberta and **Saskatchewan** were created; amending the present Canadian Constitution; current situation in the Yukon; and adjusting the territorial boundaries. The entire morning **was** taken up with such **questions-and-answers**. In response to these questions **two** documents **were** made available to delegates. These were a letter to the Yukon Commissioner (**Mrs. Ione Christensen**) from the Minister of IAND outlining her terms of reference and providing guidance in other priority areas; and a paper titled "The Birth of Twin Provinces" describing the political evolution of Alberta and Saskatchewan,

In the afternoon, delegates began discussion of the Working Paper prepared for the conference. Both Mr. Stien Lal and Mr. Dwight Noseworthy, Executive Director of the Aboriginal Rights and Constitutional Development Secretariat, were available at microphones to provide delegates with advice during the rest of the conference discussions. Delegates adopted the six principles set out on page five of the Working Paper. After an extended period of questions and debate the delegates further agreed that:

- a) some mechanism was necessary to ensure that aboriginal rights settlements are protected, and
- b) the **residency** requirement for voting be extended beyond one year to a reasonable period permitted by the Canadian Constitution.

DAY THREE

Day three continued in the same tone as day two. Although not all items still on a list of issues were discussed the conference delegates agreed that:

- a) some form of guaranteed representation for aboriginal people should be included in any new government developed for the Western N.W.T.,
- b) another Constitutional Conference will be held within six months, and that the working committee struck by the First Constitutional Development Conference work on details of the principles which were agreed to by the conference, and
- c) the federal authorities responsible for constitutional development in the North be invited to attend the next conference to explain their position on constitutional development questions.

Delegates also discussed the issue of Style and Form of Government on page 33 of the Working Paper but decided to end discussions without reaching any agreement at this time.

The conference adjourned with delegates and the Chairman expressing optimism for future conferences. Mr. Sibbeston said it was one of the best meetings between native and non-native people in the N.W.T., in the past few years.

Prepared by: Aboriginal Rights and
Constitutional Development Secretariat.
September 22, 1982.

Notes of Meeting

The Honourable John Munro
and
The Western Constitutional Forum Members

September 20, 1982 - Dene Nation Office

IN ATTENDANCE:

WCF : Legislative Assembly
- James Wah-Shee
- Bob MacQuarrie
- staff

Dene Nation
- Georges Erasmus
- James Ross
- Staff

Metis Association
- Rod Hardy
- Brian Heron

Federal Govt. : - John Munro
- Staff

Territorial Govt. : - Commissioner John Parker

1. N.W.T. Constitutional Development

James Wah-Shee explained the structures and purposes of the Constitutional Alliance, the Western Constitutional Forum, the Nunavut Constitutional Forum and Legislative Assembly Special Committee on Constitutional Development including how they interrelate. He also mentioned the open invitation for COPE to participate on either, or both Forums.

2. Constitutional Development Funding

James Wah-Shee explained that the Forums required funding in order to carry out their mandates with proper public involvement. The WCF is preparing a budget which would be sent to the Minister in advance of any meeting to discuss it.

The Minister was a bit concerned with possible activity overlaps between the **various mechanisms but** understood the complexities faced in the western arctic and the evolving nature of the processes. He indicated that his department's Policy Paper on northern Constitutional Development has been before Cabinet.

twice already and will soon be presented again. He felt the delay was beneficial in that: a) it allowed Northerners to proceed with its own initiatives; and b) it shows that Cabinet considers the issue important enough not to make a hasty decision.

Georges Erasmus and Bob MacQuarrie both indicated that we have an opportunity to explore new governing institutions to meet the unique northern situation. They were concerned that the Cabinet policy may close doors before all options are considered. Mr. Munro replied that there was no desire to alienate the northern native population. He felt confident that Cabinet would be making its decision in the next few weeks and that it would be a policy that we could live with.

3. Constitutional Alliance - Federal Government Meeting

James Mah-Shee stated that the Constitutional Alliance was still trying to meet soon with federal officials responsible for northern constitutional matters. The Alliance wants to press their case for division, obtain certain federal commitments, and discuss their financial needs. Mr. Munro undertook to arrange a meeting some time in October 1982. He felt such a meeting is timely and would be very useful.

Meeting adjourned at 2:35 PM.

prepared by: Aboriginal Rights and
Constitutional Development Secretariat,
24 September 1982.