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attached, certainly to loss of jobs, in both areas. Why in the case of the aboriginal rights to self-government was this not accepted as a basic right and why has it been left to the amending formula? It seems so different. We are dividing things up that should be basic human rights.

The Acting Speaker (Mrs. Champagne): The Hon. Member for Cochrane—Superior (Mr. Penner). May I remind him that there is very little time left.

● (1540)

Mr. Penner: Madam Speaker, all I can say to the Hon. Member is thank you. In future speeches on the subject, I am going to incorporate those two aspects. Neither linguistic rights nor women's rights are in any way contingent. She is perfectly correct that the definition and elaboration of those rights followed. Why aboriginal rights should be different still puzzles many of us. We heard the answer from the Minister of Justice (Mr. Hnatyshyn), and it was not a very good or complete answer. He said that somehow they are going to rush off to the courts. I have not seen a great deal of court action in the two areas mentioned by the Hon. Member. There has been some, but usually court action follows when there is an unwillingness to negotiate, when negotiations get bogged down. I think the courts could play a useful role in getting the parties to bargain in good faith, but not to describe the content of those negotiations.

The Acting Speaker (Mrs. Champagne): Resuming debate.

Mr. John A. MacDougall (Timiskaming): Madam Speaker, I appreciate the opportunity to rise and speak on a very important question. Aboriginal peoples' rights are not a new issue in Canada. Indeed, it was an arduous and, some would argue, long overdue accomplishment to include them in the Constitution Act, 1982. But as of then, our Constitution recognized and affirmed existing aboriginal rights without defining them. However, it went on to establish a means to do that. It provided in Section 37 for a future constitutional process on aboriginal matters, which has become known as the "Section 37 process". Section 37 included the following provisions: A First Ministers' Conference was to be convened within one year—Section 37(1); the conference agenda would include the definition and identification of aboriginal rights, to be included in the Constitution and, representatives of aboriginal peoples would participate in discussions on agenda items affecting them—Section 37(2); elected representatives of the Yukon and the Northwest Territories Governments were to be invited to participate in discussing agenda items affecting those regions—Section 37(3).

It is also important to note that, from the outset, there were different interpretations of the purpose of the Section 37 process. The aboriginal associations viewed the process as one in which their rights would be clarified and affirmed rather than given or restored. Many Governments on the other hand viewed the Section 37 process as a means of identifying and

protecting aboriginal rights which would be recognized in the future.

The March 1983 First Ministers' Conference was preceded by extensive consultations among the provinces, the Territories and the aboriginal representatives. It resulted in an accord signed by the federal Government and all the provinces except Quebec. As participants in the process, aboriginal representatives and leaders of the territorial Governments also signed the accord. The 1983 accord called for a resolution containing the following amendments to the Constitution which were ultimately proclaimed in June, 1984, after being endorsed by the House of Commons, the Senate and nine provincial legislatures. These provisions were: The protection of "treaty rights" in the Constitution was extended to include rights arising from land claims settlements; aboriginal and treaty rights recognized and affirmed in the Constitution were made to apply equally to male and female persons; the Prime Minister (Mr. Mulroney) was required to convene two further conferences of First Ministers each having in its agenda "constitutional matters that directly affect the aboriginal peoples of Canada"; the conferences were to take place no later than April 17, of 1985 and 1987 respectively; and no amendment to Sections 25 and 35 of the Constitution Act, 1982, or Section 91(24) of the Constitution Act, 1867, could be made without first discussing the proposed amendment at a First Ministers' Conference to which aboriginal representatives must be invited as participants.

The accord also gave formal recognition to the agenda for future conferences and provided that future conferences must address the items that could not be discussed in the time available. The agenda was a list of "constitutional matters" identified for ongoing review in the Section 37 process and included: Charter of Rights of the aboriginal peoples; amending formula revisions; self-government; amendments to Part III; and ongoing process. The accord also provided that there should be a subsequent First Ministers' Conference by March of 1984, and established a mandatory and continuing preparatory process to be undertaken by Ministers and aboriginal representatives. Specifically, it required that a multilateral ministerial level meeting had to be convened at least annually by the Government of Canada in preparation for the required First Ministers' Conferences. The Section 37 process was intended to be one whereby the rights of the aboriginal peoples would be identified and defined so that they could be included in the Constitution. The 1983 accord was intended to give practical effect and commitment to that intention.

The difficulties inherent in this process emerged early on. The rights to be so identified and defined fell into the broad category of "existing aboriginal and treaty rights" referred to in Section 35. It was not surprising that there were quite divergent and varied interpretations of the nature and scope of these rights. Mutually agreeable definitions eluded the parties, yet, for Governments in particular, a clear definition of these rights was essential if the process of constitution-building between Governments and the aboriginal peoples was to