



Global Nonviolent Action Database

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Canadian Aboriginals stop a constitutional amendment (Meech Lake Accord), 1990

12 June

1990

to: 22 June

1990

Country: Canada

Location City/State/Province: *Winnipeg, Manitoba*

Location Description: *Manitoba Legislative Building*

Goals:

The recognition of aboriginal peoples as members in the founding of Canada with inclusion of this in the constitution as a distinct society, with self-government recognized.

If these were not met in the Constitutional Amendment, then the goal was to stop its passage.

Methods

Methods in 1st segment:

- 047. Assemblies of protest or support
- 149. Quasi-legal evasions and delays

Methods in 2nd segment:

- 047. Assemblies of protest or support
- 144. Stalling and obstruction
- 149. Quasi-legal evasions and delays
- 177. Speak-in › Use of the full time allotted for an Oral question Period in a legislative procedure

Methods in 3rd segment:

- 047. Assemblies of protest or support
- 144. Stalling and obstruction
- 177. Speak-in › Use of the full time allotted for an Oral question Period in a legislative procedure

Methods in 4th segment:

- 047. Assemblies of protest or support
- 144. Stalling and obstruction
- 149. Quasi-legal evasions and delays

Methods in 5th segment:

- 047. Assemblies of protest or support
- 144. Stalling and obstruction
- 177. Speak-in › Use of the full time allotted for an Oral question Period in a legislative procedure

Methods in 6th segment:

- 047. Assemblies of protest or support

Notes on Methods:

Essentially the campaign involved the use of procedural rules to delay and ultimately end the process of the ratification of the Meech Lake Accord. All speeches are in the form of legislative debate and questions posed in public question periods of the Legislative Assembly of Manitoba.

Classifications

Classification:

Change
Defense

Cluster:

Democracy
Human Rights
National/Ethnic Identity

Group characterization:

- Canadian First Nations

Leaders, partners, allies, elites

Leaders:

Member representing Rupertsland in the Legislative Assembly of Manitoba - Elijah Harper

Grand Chief of the Assembly of Manitoba Chiefs - Phil Fontaine

Partners:

Assembly of Manitoba Chiefs, Assembly of First Nations

External allies:

Elijah Harper's Legal Council - Gord MacIntosh

Member representing Thompson in the Legislative Assembly of Manitoba - Steve Ashton

Involvement of social elites:

Leaders were both members of political bodies.

Joining/exiting order of social groups

Groups in 1st Segment:

- Assembly of First Nations

- Assembly of Manitoba Chiefs

Groups in 2nd Segment:

- Member representing Thompson in the Legislative Assembly of Manitoba - Steve Ashton

Groups in 3rd Segment:

Groups in 4th Segment:

Groups in 5th Segment:

Groups in 6th Segment:

Segment Length: *Approximately 1.5 days*

Opponent, Opponent Responses, and Violence

Opponents:

Federal Government of Canada, Gary Filmon (Premier of Manitoba)

Nonviolent responses of opponent:

The Prime Minister attempted to negotiate a solution with the Assembly of Manitoba Chiefs, but the proposed solution was not agreed to.

Campaigner violence:

None known

Repressive Violence:

None known

Success Outcome

Success in achieving specific demands/goals:

4 points out of 6 points

Survival:

1 point out of 1 points

Growth:

1 point out of 3 points

Notes on outcomes:

The Meech Lake Accord did not get ratified by all Provinces and the Federal Government of Canada and therefore the Constitution of Canada was not amended in the ways described in the Accord. By defeating the Accord it has led to a continued process to achieve the recognition of the rights and place of aboriginals in Canada.

The context for this campaign starts in the early 1980s with the repatriation of the legislation that founded Canada: the British North America Act of 1867. The idea of repatriation had been around since the 1920s and was finally brought to realization in 1982 by the then Prime Minister of Canada, Pierre Elliot Trudeau.

Trudeau's successful effort was stimulated by the continued tension between Quebec and the rest of the country, with repeated attempts by Quebec to separate from the rest of the country over the course of many years. The repatriation occurred through the passage of the Canada Act, 1982 (UK).

In the same year the Constitution Act was passed that included a new Charter of Rights. The Charter was controversial. The Charter of Rights included a section on the rights of Aboriginals that was agreed to by all of the provinces of Canada with the

exception of Quebec. The rights of aboriginals had been a challenge even with this section in the constitution of Canada.

However, the approval of the provinces was not actually required to enact the Canada Act of 1982, and it was never approved by Quebec.

In 1987 the Prime Minister of Canada, Brian Mulroney, wanting to include Quebec in a new agreement with the rest of Canada, negotiated an agreement with the ten Premiers in Meech Lake to amend the Constitution of Canada. The five main modifications were: a recognition of Quebec as a “distinct society”; a constitutional veto for Quebec and other provinces; increased provincial powers with respect to immigration; extension and regulation of the right for a reasonable financial compensation to any province that chooses to opt out of any future federal programs in areas of exclusive provincial jurisdiction; and provincial input in appointing senators and Supreme Court judges.

There was to be a three-year period, starting when the first province ratified it in their legislature, in which all provincial and federal legislatures would consent to the implementation of the accord. The first province to do so was Quebec on June 23, 1987; this set the last day that all others had to consent by as June 23, 1990.

When 1990 arrived the accord had been ratified by most of the provinces, with exceptions including Manitoba and Newfoundland. The deadline of June 23 approached as pressure mounted on the two last provinces.

Even while most of Canada was seemingly in the process of approving the new Constitution, it remained controversial among aboriginal peoples because the issue of aboriginal rights had not been addressed. By June the Manitoba Legislative Assembly had not yet voted to approve of the new Constitution, which it would need to do in order for the Constitution to take effect.

As the deadline approached, the Chief of the Assembly of Manitoba Chiefs came with the aboriginal concern to Elijah Harper, a member of the Manitoba Legislative Assembly. Harper agreed to help.

Additionally, Harper brought in some help in trying to figure out if there was anything that could be done. He enlisted Gord MacIntosh, a former deputy clerk of the Manitoba Legislature who was very proficient with the rules and regulations of that body.

On June 12, 1990, with only 11 days left before the deadline, the proposed Constitutional amendment was brought up by the Manitoba Premier; in a parliamentary move he "requested leave" to move the amendment. Elijah Harper said, "No," which denied the motion for that day. Harper was the only one of the 57 legislators who said no; the pressure was on.

Outside the legislature, the members of the Assembly of Manitoba Chiefs were delayed and almost denied entry to the public galleries for that day. This would come into play later in the campaign.

The next day, June 13, Premier Filmon once again sought leave to move the proposed “Constitutional Amendment, 1987” and Harper again said, "No." The legislature adjourned until the next afternoon.

On that day, June 14, Mr. Harper raised a point of privilege with regard to the attendance of the members of his constituency and their ability to be able to view the proceedings of the Legislature. The ruling on this point of privilege was given on June 19, 1990.

The next part of the procedure of the Legislative Assembly was an Oral Question Period. Mr. Harper took advantage of the question period to use the approximately 40 minutes to ask questions on numerous topics. These included: the process of negotiation of the Meech Lake Accord; the lack of inclusion of Aboriginal People; the lack of a Parliamentary Committee to review the Constitutional Amendment; the shutting out of aboriginals from future constitutional discussions; the lack of public hearings on this piece of legislation; the absence of the Premier at an Assembly of Manitoba Chiefs meeting that he was requested to attend; the Role of the Minister of Native Affairs in the process; the role of the Minister of Justice in the process; and lastly, the vital need for inclusion of aboriginal consultation.

Continuing in his strategy of using parliamentary rules to prevent legislative action, Elijah Harper raised a Point of Order respecting the impropriety of listing the resolutions and motions on the Order paper for the day.

The ruling of the speaker was that indeed the notices of motion did not appear in the House on June 12, as they should have to be in compliance with Rule 51(2) of the Manitoba Legislative Assembly Rule Book, which set the procedure to introduce a motion into the house. In this case it was two days after it was filed with the Clerk of the house. Because of the improperly filed motions, they could not proceed; therefore, the Assembly was adjourned for the day.

On Friday, June 15, 1990, in the morning sitting of the Legislative Assembly, Premier Filmon sought leave to move the proposed "Constitutional Amendment, 1987", and for yet another sitting the amendment was left because of lack of permission to continue. In the afternoon sitting the same thing occurred and the assembly was adjourned until Monday.

Over the course of the weekend the Prime Minister of all of Canada, Brian Mulroney, got in contact with Mr. Harper and the Assembly of Manitoba Chiefs. In this contact he arranged a meeting with them and a delegation that he was sending to Winnipeg from Ottawa, Canada's capital.

On Monday, June 18, 1990, the delegation of the Prime Minister met with Mr. Harper and the Assembly of Manitoba Chiefs. At that meeting the envoy proposed that the issue of aboriginal rights be dealt with at a later time, through a separate set of meetings and agreements. This was rejected.

On that day as well in the Legislative building, Mr. Filmon sought leave to move the proposed "Constitutional Amendment, 1987" and was again denied leave. The June 23 deadline was now only five days away. Newfoundland, the other province that had not signed on to the amendment, did not bother to have a legislative debate because all eyes were now on Manitoba.

On Tuesday, June 19, 1990, the speaker of the house ruled on Harper's earlier point of privilege regarding the attendance of Harper's constituency at the proceedings. The speaker ruled that the point was out of order because there was a failure to establish a prima facie case and it was not brought forward at the earliest opportunity as per Parliamentary Procedure. Mr. Filmon again sought leave to move the proposed "Constitutional Amendment, 1987", but was denied yet again, further delaying the process.

On Wednesday, June 20, 1990, trying to expedite the process of moving the "Constitutional Amendment, 1987", permission to move to the Orders of the Day and skip oral question period was requested, and this leave was not granted again. In the oral question period that followed, Mr. Harper again asked many questions during the 40 minutes on topics such as the Premier's position on the Prime Minister's envoy; asking the Premier his position on the suggestion to limit Public hearings and how would break Rule 36(1) of the Manitoba Legislative Assembly Rule Book if it was done; and the Premier's position on Aboriginal Rights and what could be done to correct the situation.

The "Constitutional Amendment, 1987" was moved by Mr. Filmon and it was read out in its entirety as permission to dispense with the reading was not given (this permission is very commonly allowed) as another way to slow and stall the process. A request to concurrently debate the "Constitutional Amendment, 1987" and a supplementary agreement on the Meech Lake Accord was denied. The process of debate began and six members spoke that day. They adjourned at six o'clock, as leave was not given to continue debate beyond that time.

Pressure on Elijah Harper to stop obstructing the legislature continued to mount. On Thursday, June 21, 1990, with Harper once again refusing to "give leave" to proceed to Orders of the Day, Mr. Harper went ahead to fill another 40-minute oral question period to further delay the process.

After the oral question period the process of debate continued for the rest of the day with ten members speaking to the amendment. The legislature adjourned at six o'clock, as leave to proceed beyond that time was not given yet again.

Friday, June 22 arrived with the realization that a debate on the constitutional amendment could not possibly be concluded on

that day and that the legislature in effect would miss Canada's deadline. Harper gave leave to proceed to Orders of the Day. Five members spoke to the amendment, no vote was taken, and the house adjourned until October 11, 1990.

The "Constitutional Amendment, 1987" died on June 22, 1990.

In the bigger picture, aboriginal rights have continued to be an issue in Canadian national life. However, the defeat of this constitutional amendment, along with the subsequent defeat of the Charlottetown Accord in 1992, forever changed the ways in which the reconciliation of Quebec and the relationship of the aboriginal peoples of Canada with the Crown would be conducted: excluding the First Nations of Canada (the aboriginal people) from constitutional discussions was rendered virtually impossible.

Research Notes

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Additional Notes:

Other issues that Elijah Harper focused on during the Oral Question Periods included:

A constitutional affairs negotiation process which excluded the first citizens of Canada (its Aboriginal people); the steps that the Premier would use to allow full and equal participation in all constitutional talks; Premier's position on aboriginal self-government; the creation of new provinces from the territories in the north to allow for the aboriginal voices of those areas to be heard in constitutional talks; the Premier's opinion on the strengthening of Aboriginal Rights specifically Section 35 of the Canada Constitution; to the Attorney General of Manitoba, what the Manitoba government was going to do with the recent Supreme Court of Canada ruling in the Sparrow case; the elimination of aboriginal tax exemptions property through the passage of Bill No.79(MB); treaty rights implementation; Aboriginal Justice Inquiry Recommendations; native education government initiatives; aboriginal adoptions repatriation; aboriginal child care centres government initiatives; treaty rights health care; and hunting/fishing regulations; the Prime Minister personal attacks on the Assembly of Manitoba Chiefs; the question of are aboriginal people a distinct society; the creation of new provinces from the territories in the north to allow for the aboriginal voices of those areas to be heard in constitutional talks; the constitutional conference's negotiation process; aboriginal participation in that process; protection of aboriginal people from retribution because of taking the action that where happening; public hearings on constitutional affairs; aboriginal participation; economic growth for aboriginal people; treaty rights with regard to education; the protection of treaty rights; resource development; provincial assistance with native communication networks; the language of instruction for native education; aboriginal rights with regard to recent Supreme Court of Canada decisions; and transportation enhancement in northern communities.

Name of researcher, and date dd/mm/yyyy:

Aaron Maciejko, 28/02/2012

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