

Selected Documents from the Assembly of Manitoba Chiefs on the Meech Lake Accord

Introduction

The following documents record important actions in the three-year campaign of the Assembly of Manitoba Chiefs (AMC) against the Meech Lake Accord. The AMC crusade to stop the Accord captured public attention during the critical two weeks in June 1990, when Elijah Harper blocked its passage in the Manitoba Legislature. The crusade began, however, shortly after the announcement of the Accord by the First Ministers on 30 April 1987. The AMC's Constitutional Committee, an active participant in the Aboriginal constitutional conferences from 1983 to 1987, was upset that the First Ministers had easily reached a deal on Quebec's concerns when they had found agreement impossible only a few weeks earlier at the last Aboriginal conference. The Committee almost immediately opposed the Accord for the reasons outlined in the first document, "Analysis of Potential Impact of the Meech Lake Constitutional Accord on the Rights of Aboriginal Peoples." One member of the Constitutional Committee was the AMC's national representative, Phil Fontaine, Manitoba Vice-Chief for the Assembly of First Nations. The AMC position was accepted by the Assembly of First Nations in the summer of 1987.

Over the next three years, the AMC worked more diligently than any other Aboriginal organization to have its concerns about the Accord accepted by politicians. It took advantage of opportunities presented by the vagaries of electoral politics. In April 1989, its Provincial Leader, Chief Louis Stevenson of the Peguis First Nation, appeared before the Manitoba Task Force on Meech Lake established by the minority government of Premier Gary Filmon. As well, many of the sixty-one First Nations that comprise the AMC appeared individually to express their opposition to the Accord. The second document presented here, "A Declaration of the First Nations," was signed during the public hearings in Garden Hill by three important members of the task force: Sharon Carstairs, leader of the Liberal Party; Gary Doer, leader of the New Democratic Party; and Jim McCrae, the provincial Attorney-General, representing the Progressive Conservative Party. In the Declaration they recognize and support the inherent right of self-determination of the First Nations. In its final recommendations, the task force accepted many of the AMC's views on the Accord, such as the need to recognize Aboriginal peoples as the first fundamental characteristic of Canada within a "Canada" clause in the Constitution. The AMC, with Phil Fontaine as Provincial Leader since August of 1989, also appeared before the House of

Commons Special Committee to Study a Proposed Companion Resolution to the Meech Lake Accord (the Charest Committee) on 24 April 1990.

As well as pressing its difficulties with the Accord in public hearings, the AMC searched for other methods to prevent an unchanged Meech Lake Accord from becoming part of the Constitution. It developed a legal argument that the amending procedures being used in Parliament and the legislatures to ratify the Accord were inconsistent with the amending procedures in the *Constitution Act, 1982*. Representatives of the AMC met with officials from the three provincial governments whose legislatures had not endorsed the Accord (Manitoba, New Brunswick and Newfoundland) in an attempt to convince one of them to refer to the courts the legal question of appropriate amending procedures. A victory in court on this issue would at least delay passage of the Accord. Document three is a letter dated 11 May 1990, to all Chiefs and councils from Fontaine and Chief Oscar Lathlin summarizing the activities of the AMC during the preceding month. The AMC, a tiny organization with a staff of only seven and limited core funding from the provincial government, spent a sizeable portion of its meagre resources in trying to stop the Accord by this route, but to no avail. Although the legal strategy did not find a willing province, as part of the three-year campaign it did help to maintain the unified opposition of all Manitoba First Nations to the Accord.

In the late hours of 9 June 1990, the First Ministers announced a new constitutional deal. Meech Lake would be accepted without amendment by the three remaining provinces before the ratification deadline of 23 June 1990, and a companion resolution would be adopted in all eleven jurisdictions as soon as possible after Meech Lake became law. The companion resolution was an attempt to address criticisms of the Accord without altering the Accord itself. The AMC felt betrayed by Manitoba politicians, for even though the leaders of the three political parties had made a commitment to the recommendations of the Manitoba task force, they had agreed to pass the Accord without any changes. The companion resolution was unsatisfactory because it merely established more processes, such as future constitutional conferences, with no assurance of meaningful substance.

In the words of Fontaine, the AMC "seized the moment," having always been fully aware that the Accord required approval by the Manitoba legislature. On Sunday, 10 June, Fontaine contacted Elijah Harper, the sole Aboriginal member of the Manitoba legislature, in Red Sucker Lake, Manitoba. Harper, although not involved in any of the AMC's battles against the Accord, was a former Chief and on record as being opposed to Meech Lake. He flew to Winnipeg and met Fontaine the next morning, Monday, 11 June. They discussed Harper's critical role in the impending actions of the AMC to stop the Accord. By coincidence, the AMC's Self-Determination Committee was meeting that day. The Chiefs on the committee, plus other Chiefs who were in Winnipeg, discussed the next steps they would take to kill

the Accord. The meeting began in the afternoon and continued into the evening, with Harper in attendance for some of the discussions.

For many months the AMC had planned a national conference on Aboriginal health issues for 12-14 June in Winnipeg. The conference quickly focused exclusively on the AMC campaign against the Accord. The fourth document, "Resolution to Defeat the Meech Lake Accords," was passed unanimously by the Chiefs at the conference on the morning of 12 June and contains the consensus reached during the meetings of the previous day. It outlines the strategy the Chiefs would follow for the next ten days. One component of their plan, to convince Elijah Harper to refuse unanimous consent to any procedural motion permitting passage of the Accord in the legislature, began unfolding that day, with Harper saying "no" for the first time on Tuesday, 12 June, at 1:30 p.m.

Manitoba is the only province that requires public hearings on proposed amendments to the Constitution. As part of its strategy the AMC flooded the Clerk of the Legislative Assembly with requests from Aboriginal persons to appear before the legislative committee that would conduct the hearings. With every Manitoba citizen arguably having a right to be heard by the committee, the Accord could be bogged down in committee hearings and die before the 23 June deadline even if the tactic of Harper's unfailing "no" ran into unexpected difficulty. The fifth and sixth documents are the form letters prepared by the AMC on 12 June and first circulated at the health conference, one for Chiefs and the other for Aboriginal citizens. The distribution network was run by some of the battery of volunteers coordinated by the AMC. Although the Accord perished in Manitoba without being sent to committee, by the time of its demise on 23 June, 3792 people had asked to appear before the committee, of which approximately seventy-five percent were Aboriginal persons. The campaign to overwhelm the committee is one example of the considerable organizational skills of the AMC.

The AMC press statement of 15 June, document seven, is representative of the many press releases issued by the Chiefs between 10 June and 23 June to explain their actions against the Accord. This particular statement was accompanied by an open letter to the people of Quebec, document eight, which was sent to Premier Bourassa, all members of the National Assembly and Quebec newspapers. The AMC wished to state clearly, as it had done many times since 1987, that its opposition to the Accord was not fuelled by anti-French sentiment.

By the end of the week politicians outside Manitoba could no longer ignore Elijah Harper's blocking of the Accord in the Manitoba legislature. Federal politicians, who had disregarded the AMC for three years, suddenly were forced to take notice of the Aboriginal opposition to Meech Lake. Prime Minister Mulroney phoned Fontaine on 17 June to request a meeting with the Chiefs. After an internal discussion (the Prime Minister's phone call had interrupted a Chief's meeting in progress), the Chiefs agreed to meet with a

delegation of four people from the Prime Minister's office, including Senator Lowell Murray, the minister responsible for federal-provincial relations, on Monday, 18 June. At that meeting, Murray gave the Chiefs a letter from Prime Minister Mulroney, document nine. The contents failed to sway the AMC from its original position of refusing to negotiate any deal to save the Accord. More specific reasons for dismissing the proposals in the letter are set out in the tenth document, an internal AMC paper entitled "Comments on the Letter from the Prime Minister." The efforts of the Prime Minister indicate an early federal realization that the Aboriginal opposition to Meech Lake would be responsible for killing the Accord, notwithstanding later federal finger-pointing at Premier Clyde Wells of Newfoundland.

By 18 June, the death of the Accord had been guaranteed by the actions of Aboriginal peoples. Thousands of Aboriginal people gathered in Winnipeg to support Harper and the Chiefs, with over five thousand Aboriginal and non-Aboriginal people rallying on Aboriginal Solidarity Day, 21 June 1990, in the afternoon at the Manitoba legislature and in the evening at the Winnipeg Convention Centre. Fontaine and Harper were among many Aboriginal leaders from across the country that spoke to the crowds. Their speeches, representative of many they made during the two-week period, are reproduced as documents eleven and twelve.

The defeat of the Meech Lake Accord was a triumph for Aboriginal peoples, a time of solidarity, strength and empowerment. These documents provide a partial snapshot of the work done by the AMC to produce the victory. Other material, such as the texts of the AMC's presentations at the various hearings and Harper's statements in the legislature, are available from public sources such as *Hansard* and should be consulted for a more complete documentary picture of an unforgettable and inspirational moment in Aboriginal history.

Donna Greschner

Document One: Analysis of Potential Impact of the
 Meech Lake Constitutional Accord
 on the Rights of Aboriginal People,
 June 1987

General Comments

The Meech Lake Agreement in principle appears to have substantial and far-reaching implications for Canada's Aboriginal peoples. This seems to be true not only for the subject matters and processes already agreed to, but also for the matters to be discussed by First Ministers in the future.

This agreement in principle is a concrete illustration of why it is vital that Aboriginal peoples directly represent themselves in all federal-provincial constitutional talks.

Additional provisions in the constitutional agreement are needed to protect the rights, status and interests of Aboriginal peoples.

Prime Minister Mulroney refused to allow the national Aboriginal organizations to participate in the Quebec constitutional negotiations at Meech Lake. In the absence of direct Aboriginal involvement at the Meech Lake constitutional talks, Mr. Mulroney did not choose to recognize the trust responsibility of the federal government in favour of Aboriginal peoples and failed to protect their interests.

Since the Constitution is both a legal and political document of the highest significance, any adverse consequences for Aboriginal peoples could well be far-reaching.

1. QUEBEC DISTINCT SOCIETY PROVISION

Canada is described in dual linguistic terms. The English-speaking and French-speaking nature of the country is to be recognized as a fundamental characteristic of Canada which the Parliament of Canada and the provinces are charged to preserve. In addition, Quebec is accorded constitutional status as a distinct society and the role of the Legislature and the Government of Quebec is explicitly committed to the preservation and promotion of this distinctiveness. Of fundamental importance, the Accord provides that the Constitution of Canada shall be interpreted in a manner consistent with those provisions.

COMMENTS

A. ABORIGINAL LANGUAGE AND CULTURE

No mention is made of Aboriginal peoples and their languages and cultures. By omitting appropriate references to Aboriginal peoples and their languages and cultures, the historical reality of Canada may be further distorted in Canada's Constitution. Such actions may: (1) serve to promote the assimilation of Aboriginal peoples; (2) allow provincial laws

on language and culture to possibly adversely affect the use of Native languages and cultures (e.g., Bill 101 prior to amendments made); and (3) provide the courts with little means to protect the use of Native languages in the event of a conflict with provincial laws.

B. ABORIGINAL SELF-GOVERNMENT

Explicit constitutional recognition is only given to Quebec as constituting a distinct society. This could lead to a future interpretation that, for constitutional purposes, Aboriginal societies are not distinct or else they would also have been explicitly mentioned in Canada's Constitution.

Once again, the Canadian Federation is being defined solely in English and French terms - this will likely have adverse political and legal consequences for Aboriginal peoples and their efforts toward greater self-government and strengthen federal and provincial government claims that the Aboriginal right to self-government is not an inherent right.

Provincial powers are strengthened in relation to the "fundamental" dual character of Canada. This could imply, when in conflict, that provincial laws generally conceived to protect this fundamental character would have paramountcy over the legislation of Aboriginal governments. Areas likely to be affected are those such as education, language, culture and communications. This concern is amplified in the case of Quebec.

C. ABORIGINAL AND TREATY RIGHTS

Since the whole Constitution will be interpreted in a manner consistent with the predominant notion of two societies and two languages in Canada, it is conceivable that future interpretations of Section 91(24) of the Constitution Act, 1867 and Sections 25 and 35 of the Constitution Act, 1982 could be subject to new limitations (not all of which are foreseeable).

Also, the reference to Quebec being a distinct society would strongly imply that the distinctive element being primarily referred to is the Francophone majority - no mention is made of the fact that significant parts of Quebec form part of the ancestral homeland of Indian and Inuit Nations. This would have damaging effects on the claims of Indian and Inuit people in Quebec.

The Constitution should accurately reflect historical realities. History books can at least be rewritten if they have unfairly distorted the facts from an Aboriginal perspective. However, if a misleading or erroneous perception of Canada is entrenched in the Constitution, Aboriginal peoples may be unable to redress the situation since they do not control the amending formula.

2. IMMIGRATION

The Constitution will provide that Canada will negotiate immigration agreements with any province that requests and, once agreed upon, the agreements may be constitutionally entrenched.

In regard to Quebec, the principles of the Cullen-Couture Agreement on immigration would be incorporated in a constitutionally protected agreement between Canada and Quebec. In particular, the Cullen-Couture Agreement deals with students and temporary workers coming to Quebec (among other matters).

COMMENTS

The full impact of these provisions is difficult to assess without fully exploring the nature and scope of potential immigration agreements. It is likely that such agreements may have some impact on Aboriginal student exchanges and other cultural exchange programs and access to foreign workers, particularly for the north and more remote regions of the country. Quebec's policies on temporary workers have made it difficult for Aboriginal peoples in remote regions to hire English-speaking people from outside the province, even when bilingual skilled workers are not available for work in remote regions.

3. SPENDING POWER

The constitutional provision on the spending power is designed to limit the federal spending power in relation to areas of exclusive provincial jurisdiction. The Constitution, while recognizing that the government of Canada may undertake national initiatives in areas of provincial power, will provide that the provinces may opt out of a national program with reasonable financial compensation as long as the initiatives or programs undertaken by the province are "compatible with national objectives."

Existing national programs, e.g., Medicare, are not intended to be affected by these provisions, however, future National Programs will be subject to opting out by a province, e.g., daycare, guaranteed annual income, etc.

COMMENTS

Canadians might not obtain certain national social programs in the future, if too many provinces object. For example, Medicare would likely never have been instituted since very few provinces expressed any interest. The major beneficiaries of national programs tends to be those who are least advantaged, of which Aboriginal people rank highest.

Even if national programs are established, uneven standards may result in different parts of Canada, if one or more provinces opt out. An opting-out province does not have to meet national criteria or standards in its own program, but only has to undertake its own "initiative" or program "compatible with national objectives."

There does not appear to be any guarantee that all of the "reasonable compensation" received by an opting-out province from the federal government would in fact be used for the same purpose as the National Program.

There is no assurance that Aboriginal peoples within provinces that opt out of National Programs would still have access to such National Programs (based on Section 91(24) and federal responsibility). The record in Quebec, where opting-out provisions have been effected suggest that the federal government would be very reluctant to extend the benefits of a National Program to Aboriginal people in an opted-out province. In its effect, the opting-out provision could lead to a significant extension of provincial power over Aboriginal people and a further erosion of the federal trust responsibility.

4. AMENDING FORMULA

The Constitution will provide that reasonable compensation will be provided in all cases when a province opts out of an amendment transferring provincial jurisdiction to parliament.

The Constitution will also provide that future constitutional amendments relating to all subject matters referred to in Section 42 would require the unanimous consent of parliament and the provincial legislatures.

COMMENTS

This new provision will extend provincial opting-out powers referred to in Section 40 of the Constitution Act, 1982. For example, if Canada were to establish a national program in a given area and required the transfer of provincial jurisdiction to parliament, a province could opt out of such an amendment and receive reasonable compensation. This would seem to give rise to many of the concerns raised under the previous heading, "Spending Power."

By providing an opting-out province with reasonable compensation in all cases, Canada seems to be creating a constitutional incentive for provinces to opt out - this extent of decentralization within Canada may provide provinces with stronger powers at the expense of the federal government and may not be in the interests of Canadians and, in particular, Aboriginal people.

The application of a unanimity provision to Section 42 has potential prejudicial effects for Aboriginal people.

No change to the Senate and the Supreme Court of Canada will be possible without unanimous consent. In regard to the Senate, Aboriginal peoples may be prejudiced by this provision for the following reasons:

- to date, Senate reform has been viewed by many Aboriginal groups as possibly providing greater political representation and involvement for Aboriginal peoples. Unanimous consent may make satisfactory reform of the Senate virtually unattainable.
- if Senate reform should take place, each province can use its veto power to shape the Senate in a manner that increases provincial control, rather than guaranteeing Aboriginal peoples adequate and direct representation.

It also provided that any future extension of existing provinces (Section 42(1)(e)) will require unanimous consent. This means that such action will be more difficult to achieve and, therefore, may be a positive aspect for those Aboriginal peoples in the territories.

However, the establishment of new provinces (Section 42(1)(f)) will also require unanimous consent. This means that the political development of Aboriginal peoples and others in the territories will be controlled (at least to some extent) by the provinces. Any single province will have the power to veto the creation of new provinces in the Yukon and Northwest Territories.

5. FIRST MINISTERS CONFERENCES ON THE CONSTITUTION

The Constitution will provide that a FMC on the Constitution will be held not less than once per year. The first FMC will be held within 12 months of proclamation of this amendment but not later than the end of 1988.

The Constitution will entrench the following FMC agenda items:

- (1) Senate reform including:
 - the functions and role of the Senate
 - the powers of the Senate
 - the method of selection of Senators
 - the distribution of Senate seats.
- (2) Fisheries roles and responsibilities; and
- (3) Other agreed upon matters.

COMMENTS

Aboriginal rights have not specifically been identified on the list of agenda items. Their inclusion at future FMCs may be made more difficult if this clause is interpreted to mean that the provinces must agree to the inclusion of Aboriginal rights in future constitutional meetings held under this provision.

For the most part, future FMCs on the Constitution will likely serve to further transfer federal powers to the provinces. This decentralization will in many instances cause some prejudice to Aboriginal peoples. For example, self-government arrangements may be more difficult to attain if the federal government has transferred additional jurisdiction or powers to the provinces, e.g., Fisheries.

Many of the items to be dealt with at future FMCs will bear directly on Aboriginal and Treaty Rights (e.g., Fisheries). It would appear to be crucial that Aboriginal peoples have direct representation at these future FMCs on the Constitution, or else risk the very real possibility that Aboriginal rights, interest, status and aspirations may be seriously undermined.

Document Two: A Declaration of the First Nations

"We the original people of this land know the Creator put us here.

The Creator gave us laws that govern all our relationships to live in harmony with nature and mankind.

The Laws of the Creator defined our rights and responsibilities.

The Creator gave us our spiritual beliefs, our languages, our culture, and a place on Mother Earth which provided us with all our needs.

We have maintained our freedom, our languages, and our traditions from time immemorial.

We continue to exercise the rights and fulfill the responsibilities and obligations given to us by the Creator for the Land upon which we were placed.

The Creator has given us the right to govern ourselves and the right to self-determination.

The rights and responsibilities given to us by the Creator, cannot be altered or taken away by any other nation."

We, the undersigned, representing the following political parties in Manitoba supports and recognizes the DECLARATION OF FIRST NATIONS.

Progressive Conservative Party of Manitoba

Jim McCrae

Liberal Party of Manitoba

Sharon Carstairs

New Democratic Party of Manitoba

Gary Doer

Signed and witnessed this day 14th of April 1989 at Garden Hill Reserve.

Chief Ken Wood, St. Theresa Point Band

Chief John A. Mason, Wasagamack First Nation

Chief Phillip Michel, Manitoba Keewatinowi Okimakanak

Chief Joshua Harper, Red Sucker Lake Band

Chief Isaiah Harper, Garden Hill First Nations

Document Three: Meech Lake Constitutional Strategy - Follow-up Actions

MAY 11, 1990

ASSEMBLY OF MANITOBA CHIEFS
ASSEMBLY SECRETARIAT

TO ALL MANITOBA FIRST NATIONS

Dear Chief and Council:

Re: Meech Lake Constitutional Strategy - Follow-up Actions

The following information provides a summary of meetings and discussions that have recently taken place in regard to AMC's Meech Lake constitutional strategy. In addition to AMC's constitutional positions, the proposed legal strategy (to challenge the validity of the Meech Lake resolution and its amendment procedure) has been significantly advanced.

1. Discussions with Newfoundland Government (Premier's Office)

In a telephone conversation on 5 April 1990, the proposed legal strategy of the Assembly of Manitoba Chiefs was briefly described by Paul Joffe to Deborah Coyne, Constitutional Advisor to Premier Clyde Wells.

Ms. Coyne summarized the Newfoundland Premier's position as follows:

- 1.1 the Newfoundland government is not presently interested in any legal strategy, even if it may be a successful one;
- 1.2 the government is very comfortable opposing the Meech Lake Accord in public forums, since the people of Newfoundland continue to be highly supportive;
- 1.3 the government does not mind the political "heat" it is taking for strongly opposing the Accord;
- 1.4 the government would vigorously oppose any "unbundling" of the Accord, as originally suggested by British Columbia Premier Bill Vander Zalm, in order to give legal effect to those parts of the Accord that would ordinarily be subject to only seven (7) provincial consents; and
- 1.5 the Newfoundland Premier will continue to support the inclusion of Aboriginal constitutional amendments, e.g., recognition as distinct societies, in any revisions to Meech Lake.

2. Meeting with Manitoba Liberal Leader, Sharon Carstairs

On 20 April, Phil Fontaine, Lloyd Stevenson and Paul Joffe met with Sharon Carstairs in her office in Manitoba's Legislative Building.

The purpose of the meeting was to inform Mrs. Carstairs of the proposed AMC legal strategy and to solicit her support.

Mrs. Carstairs was very enthusiastic about the legal strategy. She indicated that she would play a supportive role if Premier Filmon initiated the proposed constitutional reference in Manitoba's Court of Appeal.

Mrs. Carstairs immediately called Jim Eldridge, Secretary to Cabinet for Intergovernmental Relations, and urged him to meet with AMC representatives as soon as possible.

3. Meeting with New Brunswick Government

On 23 April, Ovide Mercredi and Paul Joffe met in Fredericton with Donald Dennison, Deputy Minister of Intergovernmental Affairs, and Kevin Malone, Assistant Deputy Minister.

The purpose of the meeting was to convey AMC's constitutional positions and concerns to the New Brunswick government. AMC's proposed legal strategy was not disclosed, since the New Brunswick government is too closely aligned with the federal government in strategizing on the Meech Lake Accord.

The two officials at the meeting indicated that New Brunswick would definitely support the constitutional recognition of Aboriginal peoples as distinct societies and as a fundamental characteristic of Canada. However, the government representatives were not very supportive of the participation of Aboriginal peoples at future First Ministers Conferences on the Constitution, Economy and other matters. In particular, the New Brunswick officials were not even certain that direct Aboriginal involvement would be accepted for such upcoming matters as Senate Reform and Fisheries. In their view, it was also not likely that the First Ministers would directly include Aboriginal peoples in any revisions to Meech Lake.

In addition, the New Brunswick representatives confirmed the following:

- 3.1 a strategy to isolate Premier Clyde Wells is taking place that includes the federal government, New Brunswick and certain other provinces;
- 3.2 New Brunswick's Companion Resolution to the Meech Lake Accord meets with federal government approval but was not put forward by the feds in order to maintain Ottawa's good relations with the Quebec government;
- 3.3 the New Brunswick government feels it is in a "vice" and it is not currently basing its constitutional positions on the merits, because of the perceived adverse impacts on New Brunswick if Quebec separates from Canada; and
- 3.4 the New Brunswick government would like to "boot Quebec's ass" for putting New Brunswick and the rest of the country in a position of crisis.

4. AMC Presentation to House of Commons Special Committee

On 24 April, AMC representatives appeared before the Special Committee in Winnipeg, in order to make clear AMC's constitutional position on the Meech Lake Accord and New Brunswick's Companion Resolution. Spokespersons for AMC included: Chief Louis Stevenson, Chief Oscar Lathlin, Phil Fontaine and Ovide Mercredi. (Lloyd Stevenson and Paul Joffe were also in attendance).

AMC's positions and recommendations to the Special Committee are elaborated in a separate document entitled, "Presentation to the Special Committee to Study a Proposed Companion Resolution to the Meech Lake Accord."

The positions taken by AMC appear to be consistent with those of other Aboriginal peoples (with the exception of Yvon Dumont and the Manitoba Métis Federation).

5. Meeting with Manitoba Government (Eldridge and Yost)

On 25 April, AMC representatives met with Jim Eldridge, Secretary to Cabinet for Intergovernmental Relations, and Greg Yost, Special Advisor to the Attorney General. In attendance for AMC were: Chief Oscar Lathlin, Phil Fontaine, Ovide Mercredi, Lloyd Stevenson and Paul Joffe.

The two Manitoba government officials did not challenge in any way the legal aspects of the AMC strategy, but were concerned with its political impact on the Manitoba government.

It was felt that, if Manitoba initiated a reference to its Court of Appeal, Manitoba would be seen in highly negative terms by Quebec and might even be portrayed as racist (as Sharon Carstairs was for taking positions that were not in line with Quebec's). The officials indicated that the Manitoba government viewed such legal action in sensitive terms, since it was only a few years ago that the government got "burned" on language issues within the province.

However, Messrs. Eldridge and Yost indicated that the Manitoba government might possibly use the AMC legal strategy as a "contingent" strategy. Also, they offered to share the AMC strategy with the other provinces attending the Western Premiers Meeting on 7 and 8 May in Portage La Prairie, Manitoba. Chief Lathlin and Phil Fontaine felt it would be better to hold off giving the AMC paper on the possible legal strategy to the other western Premiers, since they might leak the strategy to the federal government. Therefore, it was agreed that the AMC legal strategy would only be circulated by Manitoba officials within their own government, unless otherwise notified.

6. Meeting with NDP Leader, Gary Doer

On 25 April, the same AMC representatives (see sub-heading #5 above) met with Gary Doer in his office.

Gary Doer did not appear to be as favourably disposed towards AMC's legal strategy as was Sharon Carstairs. Mr. Doer stated that he preferred to argue the "injustice" of the Meech Lake Accord. However, he did seem to support advancing the legal strategy with the Manitoba government. (This was confirmed to be Mr. Doer's position a few days later in a telephone call by Phil Fontaine).

Further, Gary Doer suggested that AMC discuss its legal strategy with Greg Lyle, Principle Secretary to Premier Filmon. Mr. Doer indicated that the opinions of Jim Eldridge and Greg Yost are not the last word in terms of the Manitoba government. In particular, Mr. Yost's views were somewhat coloured since he is a Tory with aspiring ambitions to run for office as an MLA in the next election.

7. Meeting with Manitoba Government, Greg Lyle

On 1 May, Chief Oscar Lathlin, Phil Fontaine and Paul Joffe met with Greg Lyle, Principal Secretary to Premier Filmon.

Mr. Lyle took a much more positive view of AMC's legal strategy than Messrs. Eldridge and Yost. He indicated that lawyers within the government's legislative branch would be asked immediately to study the strategy in detail. Both the legal and political dimensions of the constitutional reference strategy would be examined and developed.

However, it was stated by Mr. Lyle that the first priority for Manitoba was to determine if a common "western" position could be devised at the western Premiers meeting on 7 and 8 May in Portage La Prairie. Should such a common position materialize, Manitoba and the other provinces would first try to sell it to the rest of Canada.

In the event that the western Premiers meeting does not produce a more viable option, Mr. Lyle agreed that the AMC legal strategy should be prepared for possible implementation. It was indicated that the Manitoba government would wait in any event for the report of the House of Commons Special Committee on 18 May before initiating a reference to the Manitoba Court of Appeal.

8. Meeting with Thomas Berger

On 1 and 2 May, Paul Joffe met privately with Thomas Berger in Ottawa to discuss the AMC legal strategy and Mr. Berger's presentation to the House of Commons Special Committee.

Mr. Berger was kind enough to collaborate with Paul Joffe in making beneficial revisions to Mr. Berger's written brief to the Special Committee.

9. Presentation of Thomas Berger to House of Commons Special Committee

On 3 May, Thomas Berger appeared in his personal capacity before the Special Committee in Ottawa, in order to present his views on the Meech Lake Accord and New Brunswick's Companion Resolution.

A major portion of Mr. Berger's presentation was devoted to the position that the Resolution being used to approve the Meech Lake Accord includes an amendment procedure "not countenanced by Canada's Constitution." (This is the basis of AMC's legal strategy). Therefore, Mr. Berger is calling for the federal government to initiate a reference to the Supreme Court of Canada, in order to ascertain whether the Meech Lake Resolution is invalid and of no legal force or effect.

(AMC is of the view that Mr. Berger's presentation to the Special Committee will provide added credibility to AMC's legal strategy and might serve to encourage the Manitoba government to initiate a reference to its Court of Appeal).

10. Discussion with Newfoundland Government (Premier's Office)

On 7 May, Paul Joffe had a further telephone conversation with Deborah Coyne, constitutional advisor to Premier Clyde Wells.

Ms. Coyne indicated that Mr. Wells had reacted with some interest to Thomas Berger's presentation before the Special Committee (Ms. Coyne was immediately aware that the legal argument emanated from the Assembly of Manitoba Chiefs).

Ms. Coyne confirmed the following:

- 10.1 the Newfoundland government would continue to pursue a "public" strategy;
- 10.2 Premier Wells would likely attend a First Ministers Conference on Meech Lake, if one is called for early June. However, he would not sign anything at such Conference and would expect to be able to bring any proposals back to Newfoundland for proper assessment or review;
- 10.3 the Newfoundland government has not altered its positions on Meech Lake and does not expect agreement to be reached before the deadline of 23 June 1990; and
- 10.4 the Newfoundland government would like to be kept informed of new developments concerning AMC's legal strategy.

11. Discussion with Yukon Territorial Government

On 7 May, Paul Joffe described by telephone AMC's legal strategy to Doug McArthur, Deputy Minister of Intergovernmental Affairs.

Mr. McArthur expressed interest in AMC's legal strategy and a more in-depth discussion is being scheduled for the immediate future.

12. Ongoing Discussion with Lawyers Across Canada

Paul Joffe is discussing, on an ongoing basis, the feasibility of AMC's legal strategy with lawyers in various part of Canada.

These non-government lawyers include Donna Greschner, constitutional law professor, University of Saskatchewan; Jim Aldridge, lawyer in British

Columbia (who keeps his partner, Don Rosenbloom, and Thomas Berger informed); Steven Walsh, lawyer in Yukon; Gary Yabsley, lawyer for British Columbia Indians; and Brian Schwartz, constitutional law professor, University of Manitoba. (To date, Brian Schwartz is the only lawyer among those mentioned above who has expressed reservations about the political benefits of AMC's legal strategy).

We will submit under separate cover, a report on our discussions with the Four Nations of Hobbema, regarding their participation on our strategy. We do want to indicate that these discussions went very well and they indicated their desire to cooperate with us to the fullest extent possible.

Sincerely,

ASSEMBLY OF MANITOBA CHIEFS

Phil Fontaine
Provincial Leader

Chief Oscar Lathlin
The Pas Indian Band and Responsible for the
Portfolio of Justice for the Assembly of
Manitoba Chiefs

cc. All Tribal Councils
Manitoba Keewatinowi Okimakanak
First Nations Confederacy

Document Four: Resolution to Defeat the Meech
Lake Accords, 12 June 1990

ASSEMBLY OF MANITOBA CHIEFS
ASSEMBLY SECRETARIAT

Whereas the Assembly of Manitoba Chiefs have rejected the Meech Lake Accord in that it violates the rights of Aboriginal peoples and was concluded without any participation by First Nations;

Whereas the Companion Resolution does not correct the flaws in the Meech Lake Accord and contains provisions that further violate our inherent identity and sovereignty;

Whereas the Province of Manitoba, Premier Filmon; the Leader of the Liberal Party, Mrs. Carstairs; and the Leader of the New Democratic Party, Mr. Gary Doer, all betrayed their assurances and commitments to the First Nations;

Therefore Be It Resolved that the Chiefs of Manitoba:

1. denounce the Companion Resolution and resolve to continue opposing the Meech Lake Accords;
2. call upon Elijah Harper and commits to him moral and political support for all his efforts to oppose the passage of the Meech Lake Accord and the Companion Resolution.

Be It Further Resolved that the Chiefs of Manitoba:

1. utilize the services of technical advisors of First Nations in organizational work and media relations pertaining to our resistance to the passage of Meech Lake Accords;
2. direct the Assembly of Manitoba Chiefs Secretariat to provide technical and organizational coordination for a strong and powerful effort to defeat the Meech Lake Accords;
3. direct the Provincial Leader to enable Mr. Elijah Harper to retain an advisor familiar with the Rules and Procedures of the Legislative Assembly of Manitoba for the purposes of determining the most effective method for frustrating the passage of the Meech Lake Accords;
4. direct the Provincial Leader to seek other legal opinions respecting potential court challenges on the Meech Lake Accords and to solicit financial support from all sources in this regard;

5. direct the Assembly of Manitoba Chiefs Secretariat to organize a collaborative political effort by support groups and equality seeking groups to resist the passage of the Meech Lake Accords, including the organization of a mass demonstration at the Legislative Assembly of Manitoba on or before 23 June 1990;
6. call upon all the Chiefs of Manitoba and all First Nations political and technical organizations to undertake a strong lobby of all Members of the Legislative Assembly to seek their support in voting against the Meech Lake Accords;
7. call upon all Chiefs and Councils, all Tribal Councils and all First Nations Political organizations to demand appearances before the Legislative Committee conducting public hearings respecting the Meech Lake Accords;
8. convene a National First Nations Leaders Meeting in Winnipeg to demonstrate a united opposition to the Meech Lake Accords and to devise a National Strategy of Resistance against the violations of Aboriginal peoples contained in the Meech Lake Accords and perpetuated by the process used to formulate the Accords;
9. call upon all citizens of First Nations to support the initiatives of the Assembly of Manitoba Chiefs in their resistance to the Meech Lake Accords, and to take individual and collective action to defend their rights and Aboriginal integrity as distinct peoples;

Moved By:

Seconded By:

Chairman:

Chief Roy Swan

Chief Franklin Abraham

Alfred Beaulieu, Chairman

Carried Unanimously

Dated this 12th day of June 1990, WINNIPEG, Manitoba.

Document Five: Letter from Chief of Manitoba
First Nation to Clerk of the
Legislative Assembly of Manitoba

ASSEMBLY OF MANITOBA CHIEFS
ASSEMBLY SECRETARIAT

June 12, 1990

Clerk of the Legislative Assembly of Manitoba
Legislative Building
Winnipeg, Manitoba

Dear Clerk:

As Chief of my First Nation, I demand the opportunity to appear before the Committee or Committees appointed by the Legislative Assembly of Manitoba to conduct public hearings on the Meech Lake Accord and Companion Resolution.

Participation by First Nations is not only a democratic right. We are distinct peoples and I am a leader of government too. As Chief of my First Nation, I have the inherent and ancient right and obligation to represent my people, a right and obligation that the Meech Lake Accords refuse to acknowledge. No one, and especially not eleven white men of white governments, can purport to make decisions for First Nations people without our participation and consent.

I further demand that you conduct your hearings in all First Nations communities in Manitoba. All First Nations peoples must know how we are being treated by leaders of white governments in Canada. Our rights are being deliberately violated, our distinctiveness as nations and societies ignored, and our fundamental relationship to our homelands further diminished, by the Meech Lake Accords.

You may contact me at the following address to advise me as to when and where I am to appear:

Sincerely,

Document Six: Letter from Member of Manitoba
First Nation to Clerk of the
Legislative Assembly of Manitoba

ASSEMBLY OF MANITOBA CHIEFS
ASSEMBLY SECRETARIAT

Clerk of the Legislative Assembly of Manitoba
Legislative Building
Winnipeg, Manitoba

Dear Clerk:

I request the opportunity to appear before the Committee or Committees appointed by the Legislative Assembly to conduct public hearings concerning the Meech Lake Accord and the Companion Resolution.

I consider it my personal duty as a member of a First Nation to voice my strongest opposition to the Accords and I consider it your duty to allow me full opportunity to express my concerns in person before the Committee or Committees.

I consider my participation to be a fundamental democratic right. To deny me an opportunity to speak is to perpetuate the exclusionary and elitist approaches utilized by First Ministers in the Meech Lake Accords.

You may contact me at the following address to advise me as to when and where I am to appear.

Sincerely,

Document Seven:

Statement by Phil Fontaine
Provincial Leader - Assembly of
Manitoba Chiefs, 15 June 1990

ASSEMBLY OF MANITOBA CHIEFS
ASSEMBLY SECRETARIAT

WINNIPEG... We, the Aboriginal First Nations of Manitoba want to clarify our unified position concerning the Meech Lake Accord.

1. The Meech Lake Accord offers no protection whatsoever for Aboriginal Rights.

The Aboriginal Article in the Accord calls for conferences to be called within one year and then at least once every three years and "shall have included in (their) agenda matters of interest to the Aboriginal people."

This means that Aboriginal Constitutional matters need not be the exclusive items on the agenda and First Ministers could use those conferences for their own agenda items to the detriment of Aboriginal concerns. Do the Aboriginal people of Canada have any reason to believe that the First Ministers are serious.

Since 1982, four First Minister Conferences (FMC) have been convened to address the Aboriginal Agenda. Each of these FMC's have failed because there was no political commitment to Aboriginal Rights. Why would we expect the vague promise of the Meech Lake Accord to be any different? And why should we believe that the political mentality in this country will change in the future. After all this has been the history of the political reality of Canada.

2. Historically, no one has spoken genuinely on our behalf and it is obvious no one ever will. The little concessions we have received have been derived directly from First Nations leadership.

The vagueness of the Accord and its unanimity requirement ensures that any isolated provincial support can be scuttled by any one dissenting Province. So, even if there is an indication of any support, the First Ministers have ensured that the support is virtually meaningless, as we have just witnessed when our three Provincial Leaders were unsuccessful in their commitment to speak for us. History does not lie!

3. This action undertaken by the Chiefs of Manitoba and our lone member of the Legislative Assembly, is no way directed at the people of Quebec and their aspirations. In fact we have, last night, conveyed our position to Premier Bourassa and to the people of Quebec. This communique is attached.

Finally the Chiefs of Manitoba have voiced their opinion, unanimously, rejecting the Meech Lake Accord as per the reasons outlined herein.

Document Eight: Letter from Phil Fontaine to the
People of Quebec, 14 June 1990

ASSEMBLY OF MANITOBA CHIEFS
ASSEMBLY SECRETARIAT

TO THE PEOPLE OF QUEBEC
C/O PREMIER ROBERT BOURASSA

We, the Aboriginal people of Manitoba have taken action to prevent the passage of Meech Lake Accord. To avoid any misunderstanding between ourselves and the people of Quebec, we would like to explain our position to the people of Quebec. Our action is in no way directed against Quebec; nor is it a rejection of Quebec's rights as a distinct society.

Historically, the Aboriginal people in Canada and French speaking people have had close ties. Our histories have been interwoven by the sharing of traditions, culture and language since your arrival three hundred years ago. This close relationship between Francophone and Aboriginal people has been instrumental in the development of Western Canada.

We, the Aboriginal people of Manitoba understand and support your passionate dedication to the preservation and promotion of French language and culture in Canada. We also, are fighting for our language and culture.

We, the original people of this country have inherited through the oral traditions of our forefathers, fifty five (55) distinct original languages. Fifty two (52) of these original languages of Canada are now on the brink of extinction.

Unlike you, we cannot retrieve these languages from our mother country. Our mother country is Canada. What we lose in Canada, we lose forever.

We cannot let the voices of our forefathers be silenced forever.

We want to make it very clear that we have chosen to oppose the passage of the Meech Lake Accord; not to deny your position as a distinct society but to defend our right and to protest the lack of recognition of Canada's First Nations.

Phil Fontaine
Provincial Leader
Assembly of Manitoba Chiefs

cc. All MNA's

Document Nine: Letter from the Prime Minister
to Phil Fontaine

PRIME MINISTER ■ PREMIER MINISTRE

June 18, 1990

Dear Chief Fontaine:

Last week I met with the Premiers in Ottawa and reached an agreement on the Meech Lake Accord and a companion Constitutional resolution. The Premier of Manitoba undertook to use every possible effort to achieve decision prior to 23 June 1990. Success in these efforts is an important component of Canada's future unity and prosperity. Success in these efforts is important to the Aboriginal peoples of Canada. Success in these efforts can be facilitated by assisting the Government of Manitoba in finding a solution to the procedural blockage in the Manitoba Legislature.

I understand the concerns you have expressed about the place of the Aboriginal peoples of Canada in the Constitutional reform process. I, too, wish that together we could have made more progress. But let us not overlook what has been accomplished in the past and how close we have come to making even more substantial progress.

In 1981-82, significant constitutional change took place, which included recognition of the existing Aboriginal and treaty rights of the Aboriginal peoples of Canada. This recognition, set out in S.35 of the *Constitution Act, 1982*, is of capital importance. It has led to the recent and far-reaching judgements of the Supreme Court of Canada. It has sharply influenced the actions of the Government of Canada in matters as diverse as fisheries regulation, the appointment of a Treaty Commissioner in Saskatchewan and the design of our taxation systems. It will affect Canada's approach to land and resource management.

In 1983, the first amendments to the Canadian Constitution were secured under the new amending formula. These amendments related to matters of interest to the Aboriginal peoples of Canada:

- constitutional recognition of rights acquired both through future and existing land claims agreements; and
- provision that existing Aboriginal and treaty rights be guaranteed equally to women and men.

Governments also agreed in the 1982 Constitution to provide for one First Ministers' Conference (amended in 1983 to provide an additional three meetings) on Aboriginal constitutional matters.

In 1985, Governments and the Aboriginal peoples came very close to entrenching in our Constitution the self-government rights of the Aboriginal peoples of Canada. Regrettably, however, both the 1985 and 1987 First

Ministers' Conferences ended without success -- as had the two earlier Conferences.

The Government of Quebec, alone, was not a signatory to the 1981 Constitutional Accord. Consequently, Quebec did not actively participate in the Aboriginal constitutional process, and it is no exaggeration to state that its absence from the table contributed to making the difference between success and failure in 1985. This is one consideration that led all Premiers in August 1986 to commit to discussions designed to re-integrate Quebec into the Canadian constitutional family.

No Aboriginal person should under-estimate the stake we all have in a united and prosperous Canada, which is what the Meech Lake Accord is all about. But no Canadian can be proud of our record with respect to the Aboriginal peoples. Despite some progress, we clearly have a long way to go before justice is done.

With a view to securing that justice for Aboriginal peoples while enhancing the cause of national unity, the Government of Canada puts forward the following for consideration and discussion:

- (1) The companion constitutional resolution agreed to in Ottawa would re-instate the entrenched process of First Ministers' Conferences on matters of interest to the Aboriginal peoples of Canada. Aboriginal peoples would be full participants in these Conferences, which would be entirely dedicated to Aboriginal constitutional matters, and which would be convened every three years -- beginning one year after Proclamation of the Companion Resolution. I expect that this Conference could take place as early as 1991.

The Government of Canada is prepared, immediately after Proclamation of the Meech Lake Accord, to sit down with representatives of the Aboriginal peoples to set the agenda for these Conferences. This would be the initial step in a renewed Aboriginal constitutional process.

The Government of Canada is committed to pursuing together with the Aboriginal peoples a constitutional amendment to entrench the right to self-government.

- (2) The final communiqué issued by First Ministers on 9 June includes a number of additional elements of interest to the Aboriginal peoples of Canada. These include a process to consider a "recognitions clause" to be entrenched in our Constitution. A House of Commons Committee will begin hearings on 16 July to consider drafts submitted by the federal government and four provinces. The committee will consider both the substance and placement of such a clause -- including for example, whether we should attempt to entrench a comprehensive clause that would include all of the fundamental characteristics of Canada, or whether it would be preferable -- as some Aboriginal representatives have maintained -- to entrench a separate clause dealing with the Aboriginal peoples of Canada. Either of these approaches would only require in future the consent of seven provinces with 50% of the population, as

opposed to the unanimous consent required in the current context. However this is accomplished, the Government of Canada is committed to full constitutional recognition of the Aboriginal peoples as a fundamental characteristic of Canada.

- (3) In regard to future discussions of a "recognitions clause," I intend to invite representatives of the Aboriginal peoples of Canada to participate at any future First Ministers' Conference, in light of their direct interest in this matter.
- (4) Consistent with this practice, I would also intend to invite representatives of the Aboriginal peoples to participate in all First Ministers' Conferences, where matters are being discussed that directly affect the Aboriginal peoples -- such as the question of future provincehood for the Yukon and the Northwest Territories.
- (5) In keeping with the spirit and intent of recent rulings of the Supreme Court of Canada in respect of S.35 of the Constitution, the Government of Canada commits to protect treaty rights, and stands ready to join representatives of the Aboriginal peoples in a joint effort to define those rights.
- (6) In addition to the above matters, the Government of Canada is prepared to establish a major Royal Commission on Native Affairs. This Commission would undertake a thorough and fundamental review of the relationship of Aboriginal peoples with other elements of Canadian society. To this effect, the Government would at the earliest opportunity meet representatives of Aboriginal peoples to discuss the composition, terms of reference and reporting date of such a Commission. The Government would also be prepared to consider significant Native representation on this body and the appointment of a mutually acceptable Chairman. It is our expectation that such a Royal Commission would lead to changes for the Aboriginal peoples as far-reaching and beneficial as those introduced in another context as a result of the Royal Commission on Bilingualism and Biculturalism.

Since Thursday, 14 June, representatives of the Government of Canada have attempted to enter into negotiations with Manitoba Indian leaders, in order to unblock the process of legislative ratification of the Meech Lake Accord in Manitoba.

Negotiation is the only way to reconcile differences -- even when these differences initially may appear large.

Negotiation led to the Framework Agreement on the Comprehensive Land Claim of the Conseil Attikamek-Montagnais in June 1988.

Negotiation led to the Agreement-in-Principle with the Dené-Métis on their Comprehensive Land Claim in September 1988.

Negotiation led to the Agreement-in-Principle with the Council for Yukon Indians on their Comprehensive Land Claim in May 1989.

Negotiation led to the Framework Agreement on the Comprehensive Land Claim of the Nisg'a Tribal Council in July 1989.

Negotiation led to the final Agreement with the Council of Yukon Indians on their Comprehensive Land Claim in March 1990.

Negotiation led to the final Agreement with the Dené-Métis on their Comprehensive Land Claim in April 1990.

Negotiation led to the Agreement-in-Principle with the Inuit of the Northwest Territories on their Comprehensive Land Claim in April 1990.

The Government of Canada has concluded all these agreements in the past two years through a process of negotiation. The Arctic claims will put 575,000 square kilometres of land firmly and irrevocably under Indian and Inuit ownership, and transfer more than \$1.3 billion. Together, the land area passing into Indian and Inuit ownership is more than the combined area of the four Atlantic provinces, and will make Northern Natives the largest landowners in North America. In addition, these three agreements contain arrangements for a guaranteed Native share in land and resource management outside the areas of ownership. All this has come about as a result of improvements in the comprehensive claims policy brought about by this Government.

Today, we seek to assist the Government of Manitoba in finding a solution to the procedural blockage in the Manitoba Legislature -- in order that the Meech Lake Accord can be proclaimed into law by 23 June.

The Government of Canada is ready to make the commitments set out in this letter, and hopes the Manitoba Chiefs will reflect seriously on them in the interest of a united and prosperous Canada -- one in which justice is done for the Aboriginal peoples of Canada.

In summary, my Government is ready to act expeditiously in relation to, and provide financial resources for, each of the following, as soon as the Meech Lake Accord is ratified:

1. a Federal-Aboriginal process to set the agenda for the First Ministers' Conference on Aboriginal matters; and the acceleration of the holding of the first Conference;
2. a commitment by the Government of Canada to full constitutional recognition of the Aboriginal peoples as a fundamental characteristic of Canada;
3. the participation of representatives of the Aboriginal peoples of Canada at any future First Ministers' Conference held to discuss the "recognitions clause";
4. an invitation to participate in all First Ministers' Conferences where matters being discussed directly affect the Aboriginal peoples;
5. the joint definition of treaty rights;
6. the establishment of a Royal Commission on Native Affairs.

Yours sincerely,
Brian Mulroney

Document Ten:

Comments on the Letter from the Prime Minister

The Prime Minister stated that his Government was ready to act quickly in relation to, and provide financial resources for, six items.

Aboriginal peoples listened to the Prime Minister's delegation with courtesy and respect. They were not prepared to negotiate. The Aboriginal peoples showed their wisdom in taking this position.

The six items offered nothing of substance to Aboriginal peoples. Only more process was offered.

The six items did only two things. The items either restated positions to which his Government is already committed to under the Companion Resolution, or offered to take action that it could have taken long ago and would still be able to take when Meech Lake dies.

1. The Prime Minister offered to establish a Federal-Aboriginal process to set the agenda for the First Ministers' Conference on Aboriginal issues and to accelerate the holding of the first conference.

THIS ITEM ADDED ABSOLUTELY NOTHING TO THE COMPANION RESOLUTION

The Companion Resolution commits the First Ministers to holding conferences on Aboriginal issues. A Federal-Aboriginal process to set the agenda for the Conference must be held in any event. Aboriginal peoples would not participate in any conference in which the agenda was set solely by governments.

Under the terms of the Companion Resolution, the first conference must be held within a year of passage of the Accord. An acceleration of a few months is worse than tokenism.

2. The Prime Minister committed the Government of Canada to full constitutional recognition of the Aboriginal peoples as a fundamental characteristic of Canada.

This proposal was too vague and inadequate. It failed to commit the Government to recognize Aboriginal peoples as distinct societies.

Any Government which refuses to acknowledge the unique place of Aboriginal peoples within Canada is completely unworthy of Aboriginal support. A constitutional recognition of the Aboriginal peoples as distinct societies and as a fundamental characteristic of Canada is the very least that any Government must do.

Moreover, the letter failed to give any indication of the form of the constitutional recognition. Will it be a STRONG recognition? The letter did not say so.

The Prime Minister did not acknowledge that Aboriginal peoples are as important a fundamental characteristic of Canada as French-English duality,

or are at least as distinct as the distinct society of Quebec. The proposal gave no assurance to Aboriginal peoples that we will not be lost in a long list of so-called fundamental characteristics.

3. The Prime Minister stated that representatives of Aboriginal peoples will participate at any First Ministers' Conference to discuss the recognition of the fundamental characteristics of Canada.

Such an invitation is, again, the very least that Aboriginal peoples could expect. It would be insulting, arrogant and anti-democratic for the First Ministers to agree to any statement about the uniqueness of Aboriginal peoples without Aboriginal participation and consent. Aboriginal peoples know our uniqueness and identity, the First Ministers do not.

The Prime Minister failed to commit his Government to accepting Aboriginal descriptions of our uniqueness. Aboriginal groups may indeed have an invitation to participate at any Conference, but we have no assurance that our voice will be heard. The Prime Minister could have promised that he would only accept a clause that was agreed to by Aboriginal peoples. He did not do so.

4. The Prime Minister stated that Aboriginal peoples will be invited to participate in all First Ministers' Conferences where matters are being discussed that directly affect Aboriginal interests.

This commitment may be no more than a restatement of the commitment to Aboriginal conferences. The Prime Minister retains his power to decide which matters directly affect Aboriginal interests. The only example given in the letter is the question of future provincehood for the Territories, clearly an issue of critical concern for Aboriginal peoples. The Prime Minister failed to state that he will accept Aboriginal decisions about which matters affect them, as he could have done. Aboriginal peoples know better than anyone what matters are of concern to them.

An invitation to participate does not guarantee any effective Aboriginal input. The First Ministers retain all power to set the agenda and make decisions.

5. The Prime Minister committed his Government to join representatives of Aboriginal peoples in a joint effort to define treaty rights.

The Government has always had the obligation to protect treaty rights, a duty it neglected in the past at great expense to Aboriginal peoples. After Meech Lake dies, it will continue to have this obligation.

The Government has been giving treaty rights very narrow and negative definitions since the treaties were signed. To state that the Government will now engage in a joint effort with Aboriginal peoples to define treaty rights indicates no intention on the part of the Government to change its policy of narrow definitions.

The Government failed to consider the spirit and intent of recent Supreme Court of Canada judgements, which have held that treaty rights must be defined according to the Aboriginal understanding of the treaties, with any doubt resolved in favour of Aboriginal peoples. For the Government to establish a joint effort of definition, in which it would be an equal player, would be a backward step for Aboriginal peoples.

6. The Prime Minister stated that he will establish a Royal Commission on Native Affairs.

The Prime Minister has always had the power to establish any Royal Commission and will continue to have this power after Meech Lake. That a so-called "constitutional crisis" is necessary before the Prime Minister indicates a willingness to set up a Royal Commission is tragic evidence of the extent of disregard for Aboriginal concerns in the past.

The Prime Minister failed to agree to accept Aboriginal control over the composition and terms of reference of the Commission. He did not even state that Aboriginal peoples will constitute fifty percent of the membership of the Commission. At least fifty percent representation would be needed for effective Aboriginal participation.

The Prime Minister failed to agree to accept the proposals of the Commission. Without such a commitment, Aboriginal peoples have no reason to believe that the Commission's report would not be ignored completely, as has been the case with all other Parliamentary reports. For instance, Aboriginal peoples are still waiting for implementation of the Penner Report.

The Prime Minister gave no assurance that the Commission will not be used to delay effective action on matters of Aboriginal concerns. Without such a guarantee, the Commission could become another stalling tactic.

The Prime Minister could have done far more for Aboriginal peoples. He has made significant concessions to Quebec in order to protect its distinct place within Canada. Quebec is a distinct society. Aboriginal peoples are also distinct societies, with their own languages, cultures, traditions and institutions. Yet the Prime Minister was unwilling to offer more than weak words to the Aboriginal peoples.

Document Eleven:

Speech by Elijah Harper,
21 June 1990

ASSEMBLY OF MANITOBA CHIEFS
ASSEMBLY SECRETARIAT

I am very glad to see so many of you here.

I want to salute the Chiefs of all the bands in Manitoba who have travelled to be here for this important time.

I want to welcome the Aboriginal leaders from all across Canada, including from Quebec. They have made the sacrifice to come this long distance because they know this is an important day for us.

I especially want to thank all you Aboriginal people who are here today. Many of you have travelled a long distance to get here. You have shown me so much warmth and support over the last several days, and I have drawn my strength from you. We will continue to need your support in the weeks and months ahead.

I want to thank the many non-Native supporters I see here. You are here because you understand our cause is just. As Aboriginal people, we will walk our path alone if we have to, but we prefer having allies. So it feels good to have so many of you here.

I also want to send a message to people across Canada. Many people who care about this country are watching us today. I understand that many of you may be puzzled about what we are doing in Manitoba. Some of you do not fully understand who we are and why we are here.

I do not really blame you for having questions. This is because the media usually do not pay much attention to Aboriginal people. They often do not take what we say seriously. They do not show our power, our concerns, our wisdom to the rest of the people of the country. Today we are trying to start to change that.

There is one thing I want everyone here and everyone across the country to know. We are not trying to destroy Canada. We do not want to damage anything or hurt anybody. We are trying to build up something better.

We want to heal the problems and injustices that are making this country suffer. When you have a sickness or a wound, you do not cure it by ignoring it. Healing occurs when you give the sickness your careful, patient attention. Healing occurs when you use all the wisdom and strength available to you to solve the problem.

I also want to say that I believe in democracy. I believe that what I have been doing to stop the Meech Lake Accord is democratic.

I know I am carrying out the wishes of the people who elected me, because they have told me so. This is what I must do as a member of the legislative assembly of Manitoba.

I also believe I am speaking for many more people besides the people in my constituency of Rupertsland.

I am speaking for many more people besides the Aboriginal people in Manitoba.

How do I know? The fact that all of you are here today, Aboriginal and non-Aboriginal people from across the country, tells me that.

Prime Minister Mulroney said publicly he could not understand how one MLA, meaning me, can hold up the kind of democracy he believes in.

I do not want to debate with Mr. Mulroney, because he is very good at twisting words. But I wish I could tell him, I am not just one single MLA. I wish Mr. Mulroney could see how many people I represent today!

Anyway, Mr. Mulroney's idea of democracy is not the same as mine.

Mr. Mulroney thinks the rules of the legislative assembly are there for the convenience of powerful people like himself. He seems to think the rules can be bent and twisted and suspended. He seems to think the rules exist to serve his plans and hidden agendas for us.

I believe in a new way, a different definition of democracy.

I believe that if parliamentary rules are to have any value, they must be used to protect the people who are powerless, the ones who have always been left out.

For once, we have met a situation where we as Aboriginal people can use the rules to protect our legitimate interests. So now we are doing so. And we are right to do so. We are doing it in self-defence. We have no intention of oppressing any other peoples with these rules.

I don't mean to pick on Mr. Mulroney as a person. I never like to pick on a guy when he is down. I am really using his name to speak about the style of politics he stands for.

Because his style of politics is just one example of the old style that has always been used to silence the voices of Aboriginal people in this country.

It is his kind of attitude that has oppressed Aboriginal people from the beginning. His idea is the old idea of using the rules against Aboriginal people.

The rules have been used that way for too long.

As a result we have been left out of the decision making process in this country for too many years. We have seen many broken promises. We have paid a heavy price. We have made many sacrifices to make room for other people in this country. We have received too little in return.

Mr. Mulroney's idea of democracy is at the root of what is wrong with Meech Lake. His old style of politics is what is harming the country now.

Mr. Mulroney's type of politics has done more to damage this country than anyone else I can think of in the last twenty years. He had dismantled and cut many of the institutions that protect Aboriginal and non-Aboriginal people across Canada. Mr. Mulroney has used manipulation and undemocratic tactics to railroad these things through.

Every word he says makes it obvious that he has not listened to Aboriginal people. He had not heard the voices of any of the ordinary people across Canada.

I respectfully refuse to accept lectures from him about democracy. As Aboriginal people, we do not believe his promises.

His blindness makes me sad. His way of using power makes me worry for Canada.

We are trying to put an end to that way of doing politics.

Any truly honest constitution must respect the special identity of Aboriginal people.

It must recognize the fundamental importance of Aboriginal people in defining what Canada is.

Any constitutional process must be democratic, and that means including Aboriginal people as full and equal partners.

So in the months ahead, we have a job of nation-building to do together.

For our part, we will not try to do it by manipulation. We will not do it by lies. We will not do it by back-room deals.

As Aboriginal people, we have proven over the years that we are honest, generous, responsible, and patient. We will continue to be honest, generous, and responsible.

We will continue to support the people of Quebec who, like us, are fighting to preserve their language and culture and political rights. We hope and expect they will give equal support to our constitutional rights as First Nations of Canada.

In the meantime, we will stand up for what we believe.

We will use the few rules that are in our favour in a straightforward manner.

We will never give up.

We will not go away.

We will not be silenced.

We will not accept the old idea that we should wait our turn at the end of the line for constitutional recognition.

I believe we promote democracy by acting in this new way.

We help to heal the wounds that the old style of politics has inflicted on our people.

And we help to build a better Canada for Aboriginal and non-Aboriginal people alike.

Thank you for listening to me. I am not one for long, flowery speeches.

Thank you for supporting me in this difficult task so far. I will continue to do my best as a member of the legislature.

I hope every one of you also will continue to support the cause of our people with all the energy and skills and wisdom you have ... during the difficult months we will face ahead.

Document Twelve:

Speech by Philip Fontaine,
21 June 1990

ASSEMBLY OF MANITOBA CHIEFS
ASSEMBLY SECRETARIAT

Speech by Philip Fontaine
Manitoba Legislature
June 21, 1990, 12:30 p.m.

My first task is to thank everyone who is here. Elders, young people, people from the communities, Aboriginal people, Anishinabe, Inuit, Metis, Chiefs and elected representatives. Also, non-Aboriginal people. And I know that you're coming from all over Canada. We could never have fought this battle, nor, could we carry it on, without the support of which you are such a great proof.

Foremost, however, those we carry thanks to, and who we think of today, are those who now are in the spirit world. Our ancestors. It is their legacy we carry further. It is their pride which direct us. It is their inspiration which guide us. It is their work we humbly carry on.

This is an Aboriginal manifestation. We are Aboriginal people. We have a past in this country. To us, treaties and Aboriginal rights are the lifeblood of our participation in this nation. They are at the core of our existence.

We have dealt honourably with non-Aboriginal people. We have made treaties with them. We have attempted to reach a relationship with non-Aboriginal that will allow us to have our lives as Aboriginal people. Where we would get respect, where we could feel that we earned the respect of our children, and where those in the spirit world could feel proud over what we did. This is a struggle we carried on for a long time. What's happening today is part of that struggle. What's happening today is not the last instalment. But there is no doubt, that we will get closer and closer to our goal.

What has happened this week is proof of that. We can all be proud of how Aboriginal people have been able to make a case.

This country must realize its past - without knowing the past, there can be no future. We, as Aboriginal people, know that. It's a lesson we want to share with non-Aboriginal people.

As Aboriginal people, we are used to thinking not just about what is today. The Meech Lake Accord and its accompanying document is the result of an ignorant political leadership without any sense of or respect for historical realities.

The future of this country cannot rest on a lie. It must rest on a recognition that Aboriginal people constitute distinct societies in Canada, and that this is a fundamental characteristic of this country. This is what

Aboriginal peoples battle is all about. The slighting of Aboriginal people is evident also in the comments that we - Aboriginal people - are being manipulated by others.

This meeting belies these insinuations. We have gathered to express our concerns, our will, our hopes, our links with the past and our firm belief in a better future.

This is an eagle staff. It was presented to me at a ceremony some months ago, organized by Chief Pashe and the medicine man Crow Dog. At this beautiful ceremony, which took place at Long Plains Reserve, the medicine bundles from many famous Aboriginal leaders were present. Those leaders are now in the spirit world.

But what they did, helps me to do my job. I cannot compare myself with those famous persons. However, the Creator has given us as Aboriginal people living today a responsibility to carry on their work.

That's what we are doing today. That's what we did yesterday. That's what we will do tomorrow. Between our ancestors and our children there are us.

So united we will continue and be strong.