



## The Meech Lake Accord

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Since the constitutional amendments of 1982, and their ratification by all provinces except Quebec, there have been numerous formal attempts to bring Quebec back into the constitutional framework. The first significant attempt began in 1987 and spanned over three years before coming to an end in 1990. This attempt was known as the Meech Lake Accord.

In March of 1987, provincial Premiers and Prime Minister Brian Mulroney met to discuss Quebec's constitutional demands. At the end of April, the First Ministers met at Meech Lake, Quebec, and came to an agreement to amend Canada's constitution. The Meech Lake Accord was the result.

The Meech Lake Accord was created to address the five constitutional demands Quebec believed needed to be fulfilled before they could sign the 1982 constitution with "dignity and honour" These amendments included: a constitutional veto, so any province could block any constitutional amendment; the recognition of Quebec as a "distinct society" the right to have Supreme Court Justices appointed from names on lists created by the province; limitations of the federal spending power, namely, the allowance for a province to withdraw from a national program; and greater provincial control over immigration.<sup>109</sup>

Quebec was the first province to ratify the Meech Lake Accord on 23 June 1987. Pursuant to section 39(2) of the *Constitution Act, 1982*, a constitutional amendment must be passed by all provincial legislatures and the federal House of Commons within three years of its first ratification vote. Thus, the deadline for the ratification of the Meech Lake Accord by all remaining governments was 23 June 1990.

By the summer of 1988, eight provinces and the federal House of Commons had ratified the Accord, leaving just New Brunswick and Manitoba as the only hold-outs.

On 16 December 1988, Manitoba Premier Gary Filmon tabled the resolution on the constitutional amendments in the House and gave his address

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<sup>109</sup> P. Hogg, *Constitutional Law of Canada*, Student Edition (Toronto: Carswell, 2002) at 68.

in strong support of the Accord.<sup>110</sup> Only two days later, Quebec Premier Bourassa announced his government's intention to invoke the Charter's notwithstanding clause to override the Supreme Court's decision<sup>111</sup> on French-only signs in the province. Immediately thereafter, on December 19, Gary Filmon withdrew the resolution on the Accord from debate in the Manitoba legislature. He stated Quebec's plans to use the *Charter's* notwithstanding clause to limit minority Anglophone language rights was a violation of the spirit of Meech Lake.<sup>112</sup>

April of 1989 brought more uncertainty to the Accord's future. An election in Newfoundland brought in Clyde Wells as Premier and he pledged to rescind Newfoundland's approval of the Accord. One year later, on 6 April 1990, Newfoundland officially rescinded its approval and became one of three provinces still to ratify the agreement.

After repeated calls for a First Ministers' conference, Prime Minister Mulroney finally held a conference in Ottawa from June 3-10, 1990. With only weeks to go until the ratification deadline, this emergency meeting was the last chance to convince the three hold-out provinces to take the Accord back home for ratification. This meeting is now commonly referred to as the 'roll of the dice' meeting as, upon its conclusion, Prime Minister Mulroney admitted the timing of the meeting was meant to put pressure on the dissident provinces; he stated, "That's the day we're going to roll the dice."<sup>113</sup>

On June 9, Manitoba Premier Filmon, and Manitoba leaders Sharon Carstairs and Gary Doer finally agreed to take the Accord back to Manitoba to pursue ratification by the June 23 deadline. The other hold-out provinces agreed to do the same with no promises made as to whether the Accord would actually pass. In New Brunswick, the Accord was ratified on 15 June 1990.

On June 12, Premier Filmon sought unanimous consent of the Manitoba Legislature to introduce the constitutional amendments for debate. Unanimous consent was necessary to circumvent House rules requiring two days notice before a motion is placed on the Order Paper. Elijah Harper, the only Aboriginal member of the Manitoba Legislature, denied the unanimous leave required to waive the rules, and, having no other business on the agenda, the House adjourned for the day.<sup>114</sup>

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<sup>110</sup> Manitoba, Legislative Assembly, *Debates and Proceedings* [hereinafter Hansard], Vol. XXXVII No. 100 (16 December 1988) at 4175-4183.

<sup>111</sup> *Ford v. Quebec (A.G.)*, [1988] 2 S.C.R. 712.

<sup>112</sup> Hansard, Vol. XXXVII No. 101 (19 December 1988) at 4189.

<sup>113</sup> See G. Fraser, "Marathon talks were all part of plan, PM says" *Globe and Mail* (12 June 1990) A1.

<sup>114</sup> Hansard, Vol. XXXVIII No. 145 (12 June 1990) at 5959.

First Nations communities within Manitoba, and likely elsewhere in Canada, had great concerns about the Meech Lake Accord and found their only voice in Harper. Aboriginals argued they had been continuously excluded from constitutional discussions, and a number of fruitless conferences on Aboriginal issues showed little progress and failed to address any of the valid concerns of Canada's Aboriginal people.<sup>115</sup> Elijah Harper's 'no' in the Manitoba legislature was symbolic of the much greater rejection of the Accord by the country's Aboriginal peoples

On June 13, Filmon again sought unanimous consent to introduce the Accord for debate. Harper again refused to give the required leave.<sup>116</sup> The next day, the Accord appeared on the legislature's Order Paper, but Harper raised a point of order questioning the validity of the appearance of a number of government motions on the Order Paper. Specifically, Harper pointed to House rules requiring that notices of motions must be filed with the Clerk of the Assembly before adjournment of the House on the day two days before the motion is to appear on the Order Paper. Harper also noted the government's notice of motion only appeared on an amended version of the Order Paper which was not distributed to members prior to adjournment of the House. After deliberating for three hours, Speaker Denis Rocan ruled Harper's concerns were valid and that the government's motions were improperly before the House. He ruled the motions could not be proceeded with at this time.<sup>117</sup>

For three more sitting days, Harper refused to give the unanimous consent the Premier needed to introduce the Accord for debate. In the meantime, representatives of the federal government met with Native leaders in Manitoba in an attempt to strike a last-minute deal and ensure Native support for the Accord. Native leaders flatly rejected the federal offer.<sup>118</sup> With the June 23 deadline looming, Senator Lowell Murray urged Premier Filmon to limit public hearings—a practice unique to Manitoba and integral to the passage of any matter through the legislature—to ensure timely passage of the Accord. Filmon, along with Carstairs and Doer, refused to limit public hearings.<sup>119</sup>

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<sup>115</sup> See P. Comeau, "Harper's 'no' puts brakes on Meech" *Winnipeg Free Press* (13 June 1990) 1; R. Harrison & J. O'Connor, "One man, many supporters" *Winnipeg Sun* (22 June 1990) 19.

<sup>116</sup> Hansard, Vol. XXXVIII No. 146 (13 June 1990) at 5960.

<sup>117</sup> Hansard, Vol. XXXVIII No. 147 (14 June 1990) at 5970.

<sup>118</sup> D. Sterdan, "No negotiation" *Winnipeg Sun* (17 June 1990) 3.

<sup>119</sup> See R. Harrison, "Filmon cool to Meech heat" *Winnipeg Sun* (21 June 1990) 5; R. Harrison, "Ram it through: Murray" *Winnipeg Sun* (19 June 1990) 3.

On June 20, no longer requiring consent, Premier Filmon introduced the Accord for debate.<sup>120</sup> Debate on the resolution continued in the House throughout the week until June 22 at 12:30pm—normal adjournment hour on a Friday. Unanimous consent was required to sit beyond normal sitting hours. Government House Leader Jim McCrae sought unanimous consent, but was refused one last time by Elijah Harper. The House adjourned without a vote on the Accord.<sup>121</sup>

In a final attempt to keep the Accord alive, the federal government said it would ask the Supreme Court to decide whether the June 23 deadline could be extended for Manitoba. The federal government said it would only go ahead with this option if Newfoundland ratified the Accord in time. However, after learning of the Accord's fate in Manitoba, Newfoundland Premier Wells called off the vote on the Accord.<sup>122</sup> The 23 June 1990 deadline for ratification of the Meech Lake Accord arrived and the book closed on this attempt to amend Canada's constitution.

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<sup>120</sup> Hansard, Vol. XXXVIII No. 151 (20 June 1990) at 5981.

<sup>121</sup> Hansard, Vol. XXXVIII No. 153 (22 June 1990) at 6061.

<sup>122</sup> See G. Fraser, "Meech dies as Wells puts off vote" *Globe and Mail* (23 June 1990) A1.