

LEGISLATIVE ASSEMBLY OF MANITOBA

Thursday, June 14, 1990.

The House met at 1:30 p.m.

PRAYERS

ROUTINE PROCEEDINGS

Hon. James McCrae (Government House Leader): Mr. Speaker, I wonder if there would be agreement to proceed directly to Orders of the Day?

Mr. Speaker: Is it the rule of the House to proceed directly to Orders of the Day? Agreed? The Honourable Member for Rupertsland.

MOTION OF PRIVILEGE

Mr. Elijah Harper (Rupertsland): I have a motion of privilege.

I would like to discuss the motion of privilege that on the first day of the Session when we got back we had many of the aboriginal people coming to this building, a Legislature which is a public building, and some of the incidents that happened were unacceptable. I realize that as you spoke, Mr. Speaker, that you did mention that you apologized for the incident.

Because of the circumstances and the treatment of the aboriginal people that came to this building, I call into question about the procedures of gallery attendance, whether they are adequate or what kind of provisions are being made for attendance by aboriginal people and also by other members of the public, who have access to this building. Some of the members, some of the aboriginal people received unacceptable treatment. I know one of the chiefs had his jacket torn as a result of the people trying to attend the gallery and listen to the proceedings of the Legislature.

So I therefore move, seconded by the Member for Thompson (Mr. Ashton), that the matter of gallery attendance by the public on June 12, 1990, and the policies of this House regarding gallery attendance be referred to the Standing Committee on Privileges and Elections.

Hon. James McCrae (Government House Leader): Mr. Speaker, the Honourable Member raises, by way of a question of privilege, an issue which had its beginnings on Tuesday. That was two days ago. Yesterday, on behalf of the House, Your Honour made an apology, which I felt at the time and I think most Honourable Members at the time felt was done in such a way as satisfactorily to dispose of the matter. The Honourable Member, in his comments, makes clear that the issue complained of did happen a couple of days ago and since that time the Honourable Member for Rupertsland (Mr. Harper) has had a couple of opportunities to raise the matter.

Your Honour, I believe it would be appropriate for you to take this matter under advisement in the light

of your own comments yesterday and in the light of the comments of the Honourable Member for Rupertsland, as well as my own. Thank you.

* (1335)

Mr. Steve Ashton (Second Opposition House Leader): Mr. Speaker, in taking the matter of privilege of the Member for Rupertsland (Mr. Harper) into consideration I would urge you to take into account quite clearly that I believe this is in the parameters of a matter of privilege. One of the clearest matters of privilege that can arise under Beauchesne, and I am quoting from the Fifth Edition, is in terms of the power of the House to have rules and enforce its rules.

I do believe the Member for Rupertsland (Mr. Harper) has raised a very legitimate point about what happened the other day. We are in a situation, we have a very important issue, members of the public wish to see first hand, members of the public who perhaps are not aware of the normal procedures. I believe that if our procedures led to the situation, or the interpretation of our procedures led to the situation that we saw the other day when there were difficulties, when I do know one chief attending in this Legislature was jostled, did have his jacket torn, that was the extent to which it went, whether that was deliberate or accidental, I believe if our rules have led to that type of a situation with someone, and I know the individual, someone whom I have a great deal of respect for, was caught in that situation, I believe we do need to look at changing our rules and procedures, and that is what this seeks to do, Mr. Speaker.

You quite graciously, I believe yesterday, raised this matter. You indicated your apology in terms of the House, but I believe it has to go further because, when we have as serious a matter as the debate on the future of the Canadian Constitution, I believe we have to make sure that we have respect for all members of the public to attend in these galleries and follow the proceedings.

I would urge you to take the Member for Rupertsland's very legitimate matter of privilege under consideration.

Mr. Reg Alcock (Opposition House Leader): Mr. Speaker, I would like to add my comments to this. This is a time of very high emotions in this House and in this country. I think it is incumbent upon us to exercise a great deal of care as we involve people in this debate. I would ask that you take this matter under advisement and I would ask that you look very carefully at the procedures in this House so that we do not deny any Manitoban access to the proceedings of this Chamber, and we allow everybody to see fully what is occurring here and to participate in the debate that takes place in this House. Thank you, Mr. Speaker.

Mr. Speaker: I would like to thank all Honourable Members for their advice. I will take this matter under

advisement. We will peruse Hansard and remarks of Honourable Members, and we will return back to the House with a ruling.

Is there leave of the House to move directly to Orders of the Day? Leave? No? There is no leave.

* (1340)

INTRODUCTION OF GUESTS

Mr. Speaker: Prior to Oral Questions may I direct the attention of Honourable Members to the loge to my right where we have with us this afternoon Mr. Arnie Brown, a former Member of the Legislative Assembly; Mr. J. Frank Johnston; and also to the loge to my left we have with us this afternoon, Mr. Rene Toupin, a former Member of the Assembly; Mr. Jean Allard, a former Member of the Assembly; and Mr. Jake Froese, a former Member of the Assembly.

On behalf of all Honourable Members, I welcome you here this afternoon.

Also with us this afternoon, in the public galleries, we have from the Plum Coulee School, fifty-four Grades 5 to 7 students, and they are under the direction of Mr. Vern Reimer. This school is located in the constituency of the Honourable Minister of Rural Development (Mr. Penner). Also from the Rosburn Elementary School we have twenty-seven Grade 8 students under the direction of Mr. Grant Ross. This school is located in the constituency of the Honourable Minister of Education (Mr. Derkach).

On behalf of all Honourable Members, I welcome you here this afternoon.

Mr. Elijah Harper (Rupertsland): Mr. Speaker, I seek your advice. I have a point of order regarding today's Order Paper. I would like to know when I should raise it, now or after the Question Period?

Mr. Speaker: We will deal with that matter after Oral Questions.

ORAL QUESTION PERIOD

Meech Lake Accord Negotiation Process

Mr. Elijah Harper (Rupertsland): Mr. Speaker, my question is to the Premier (Mr. Filmon). Last week the First Ministers attended a conference in Ottawa to deal with the Meech Lake Accord and many issues were discussed. One of the issues that was paramount to my constituents and the aboriginal people was with the whole issue of the concern about aboriginal people.

There is great concern of how this process was arrived at and my people would like to know, my constituents would like to know, some of the proceedings, some of the discussions that went on behind the doors of the First Ministers' Conference.

I direct a question to the Premier (Mr. Filmon). Through you, Mr. Speaker, can the Premier tell the

House and the people of this province why he returned home without any changes to the Meech Lake Accord?

Hon. Gary Filmon (Premier): Mr. Speaker, I thank the Member for Rupertsland (Mr. Harper) for his question, and I can assure him of a number of things, that the constitutional discussions that took place last week were the product of a number of rounds of discussion that did take place in the way of public process, public hearings, the most extensive of which of course took place in Manitoba last year in which more than 300 people appeared before public hearings of the Manitoba Meech Lake Task Force, an all-Party committee that reported to this House, and other hearings that took place in the Province of New Brunswick, as well as others that took place more recently in the all-Party Charest parliamentary committee.

In all of those cases, they produced indications that Canadians in general, Manitobans in particular, wanted to see changes, additions to the Meech Lake Accord. That was what was on the table during the period of discussion that we had that entire week in Ottawa, and each day as I consulted before and after the meetings with the Leaders of the Opposition Parties who were in Ottawa with me, we continued to put forward concerns of aboriginal people.

* (1345)

As a result of that, Mr. Speaker, we have before us a constitutional amendment by way of a companion resolution which we hope will be introduced in this House concurrent with the Constitution Act of 1987. That companion resolution has within it a commitment to once again put on the constitutional agenda aboriginal issues by way of a separate aboriginal constitutional process.

I might say that during the past three or four years that every time I had met with aboriginal delegations anywhere in this province, they said, we no longer have a vehicle by which we can get our issues onto the constitutional agenda. We must have an opportunity to get back onto that constitutional agenda, and in this companion resolution is a commitment to ensure that at least every three years and beginning within one year, we will have a separate constitutional aboriginal agenda at which the aboriginal leaders will be at the table with the First Ministers.

Aboriginal People Inclusion

Mr. Elijah Harper (Rupertsland): Mr. Speaker, the recommendation that was made to the task force was that the aboriginal people wanted to be a fundamental characteristic of Canada. The Premier did not achieve that. The aboriginal people that I represent want to know why you breached the recommendations. I believe that you had made a commitment to hold their position and defend their position, but we have not achieved that.

How come you did not achieve that? Were you pressured by other Premiers or the people from Quebec not to go along with that?

Hon. Gary Filmon (Premier): Mr. Speaker, as I indicated earlier, it was the Manitoba Meech Lake Task

Force Report that formed the basis of the agenda that we pursued last week in Ottawa. In addition to the assurance in the companion resolution of a separate aboriginal constitutional process, we have an assurance that beginning July 16 there will be a parliamentary committee which is struck to go across the country to listen to public opinion everywhere with respect to the fundamental characteristics of this country as they should be included in our Constitution.

I believe very strongly that the definition that we have in the Meech Lake Accord is too narrow a definition. It does not say that first and foremost we are all Canadians. It does not say that we have aboriginal origins and heritage. They are very, very important and a fundamental part of our country.

Regrettably, Mr. Speaker, that type of resolution under the circumstances that we were discussing it in Ottawa required unanimity. Under unanimous process we required the support of every single province, and I might say to the Member for Rupertsland (Mr. Harper) that we did not have the support of a number of provinces, not just Quebec. One of the things that we concluded, not only myself but the Leaders of the other Opposition Parties, was that it will be easier to get a Canada clause that states as a fundamental characteristic of Canada the aboriginal peoples of this country. It will be easier to get that under a less restrictive amending formula, which we will now be dealing with, which is seven provinces representing 50 percent of the population of Canada, as well as the Government of Canada. That less restrictive amending formula will be applied to a Canada clause in this forthcoming round.

I believe that when that parliamentary committee has its public hearings it will have the opportunity for aboriginal people everywhere in this country, people from our multicultural community and people from all different elements of society to appear before that committee. They will have the input that Manitobans had because we provided public hearings. Now the country will have their input, because they should not be denied the input to that before a final determination is made by all First Ministers. I believe that under a seven-provinces 50-percent formula we will be able to achieve that Canada clause with the aboriginal people being listed as one of our fundamental characteristics.

Mr. Harper: Mr. Speaker, the Premier had made references to the unity of this country. I would ask the Premier, are you telling the aboriginal people of this province that their rights and that their place in Canada is less important than the rights of people in Quebec?

Mr. Filmon: No, Mr. Speaker.

Parliamentary Committee

Mr. Elijah Harper (Rupertsland): Mr. Speaker, my question to the Premier again is in terms of dealing with the committee going forward to study the Canada clause in which we would be part of the clause to be included there as the fundamental characteristics of Canada. Why did the Premier not insist that there is

no need for this committee to study whether we are fundamental characteristics of Canada? We know in history and in reality that we have been first here in this country. We welcomed the people across all over the world to come to live in Canada. Why did he not insist that this committee did really have to study whether we were part of the characteristics of Canada?

* (1350)

Hon. Gary Filmon (Premier): Mr. Speaker, regrettably we were attempting to put together during that week, by unanimous agreement, the phrasing by which the aboriginal peoples would be recognized as a fundamental characteristic. During the course of the discussion, consultations were taking place with various aboriginal leaders and people who were there representing their people. Some suggested that aboriginal people should be listed as a distinct society; others suggested that they should be stated as a fundamental characteristic; others suggested a fundamental part; others suggested it should be the aboriginal heritage; others suggested that the aboriginal rights ought to be put into the clause; and others suggested that the aboriginal peoples should be the wording.

Under those circumstances, it did not seem to be reasonable to choose one of those options and not have the aboriginal peoples themselves collectively have input into what would be the final wording of such a clause. That is the opportunity that will now take place by virtue of the parliamentary committee holding hearings right across the country, which I believe will ultimately lead to what the Member for Rupertsland (Mr. Harper), so many in the gallery and so many people throughout Manitoba want to achieve.

Premier's Position

Mr. Elijah Harper (Rupertsland): Yes, my question is to the Premier again. The Premier made reference to the suggestion that the process in the companion accord would be adequate to address the concerns of the aboriginal people. The Premier has heard from the Assembly of Manitoba Chiefs and the Assembly of First Nations that the process is not a good substitute for the recognition of aboriginal peoples as distinct societies who constitute a fundamental characteristic of Canada.

My question is to the Premier (Mr. Filmon). Why did you not leave the conference when it became apparent to you that others were not prepared to give us, as aboriginal people, the respect and recognition we deserve?

Hon. Gary Filmon (Premier): Mr. Speaker, because in fact I believe that others are prepared, and I am quite confident that seven provinces representing 50 percent of the population in fact will be prepared to implement such a clause, whereas by unanimous consent it was not possible last week. Regrettably, that omission was made of course by the signatories to the Meech Lake Accord in 1987, one of which was the Leader and the Premier of the Party that the Member for Rupertsland (Mr. Harper) represented in the Legislature and in fact was a Member of the Cabinet.

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In fact, I believe that when he was a part of that Cabinet and caucus he had input to that final determination. They walked away from the table, Mr. Speaker, with nothing, none of that, and they signed the accord on behalf of the people of Manitoba.

We took the cause there and have come back with a companion resolution that I believe will address all of these concerns and will make up for that unfortunate oversight in 1987 by the Member for Rupertsland (Mr. Harper) and the Government of which he was a part.

* (1355)

Canada Clause Discussions

Mr. Elijah Harper (Rupertsland): My question is to the Premier again. The Premier made references to the fact that there will be future constitutional conferences having to do with what we call here in Manitoba the Canada clause. You know that at that future meeting the aboriginal leaders will not be invited to participate. This is an insult to the aboriginal people. Why, Mr. Premier, did you agree to shut out the aboriginal people from participating in defining what constitutes the fundamental characteristics of our country?

Mr. Speaker, I ask the Premier, are you condoning discrimination against our people?

Hon. Gary Filmon (Premier): Mr. Speaker, as a child of an immigrant family, as a member of a minority, I would not condone discrimination against anyone in society. I do not in any way stand for or accept discrimination of any kind, whether it be to aboriginal peoples, visible minorities, or any others in society.

Mr. Speaker, the fact of the matter is that our constitutional provisions and the division of powers in this country dictate who sits at the table for various discussions. What I have attempted to do by way of this companion resolution is to ensure that when we are discussing issues of aboriginal concern at future constitutional conferences that will begin as early as within the next year that the aboriginal people will be at the table where they ought to be to discuss those issues.

Until we get to that point, Mr. Speaker, until we have that companion resolution passed, we cannot have any more opportunity to expand the role of the aboriginal peoples in decision-making in this country. I would hope the Member for Rupertsland (Mr. Harper) would join with us to ensure that that presence and that opportunity are provided for his people.

Public Hearings

Mr. Elijah Harper (Rupertsland): Mr. Speaker, we have heard those comments before. We have heard from Leaders, from Premiers who have promised to have constitutional conferences. We have had those for the last few years, but aboriginal people have not been listened to.

The Premier has indicated that he wants me to proceed with public hearings, to pass the whole process,

and the whole public process in terms of public presentations is just a formality. It is to me, as to the aboriginal people whom I represent, just a sham. Why are you trying to fool the people of Manitoba into thinking that they will have the final say on the approval of the accord?

* (1400)

Hon. Gary Filmon (Premier): Mr. Speaker, I have never said that the people of Manitoba have the final say on that process. For better or for worse, under a democracy, it is the 57 people in this Legislature who will have the final say on any determination of anything that must be decided by this Legislature.

What we have put in place is the most democratic and open process anywhere in the country that allows not only for a specific type of constitutional amendment debate in this Legislature but for mandatory public hearings so we can open our ears, our eyes and open our minds to the views of the people throughout this province.

We will be listening to those people as soon as we are given the opportunity so they can influence, so that they can offer their suggestions, their ideas, share with us their hopes and their concerns and their aspirations, so that whenever that final determination has to be made by these 57 people we will at least be able to say, and say very proudly, that we listened to and took account of all the information that was available to us, and we opened our minds to hear the arguments being put forth by people throughout this province. That I am very proud of, Mr. Speaker.

We fought very hard. That is not something that is a partisan issue of this Party on this side of the House in the Legislature. In fact, all Parties set the rules of this House, the rules by which we choose to govern ourselves so that we can do a better job of governing the people of this province.

Mr. Harper: Yes, the public hearing process is an undemocratic and an unjust process that produced the two Meech Lake Accords. You have been very critical in the past—I am directing a question to the Premier, Mr. Speaker, through you—and rightly so. You addressed the constitutional change without adequate public participation. Why has this Government betrayed the trust of all people of Manitoba participating last week in that kind of process? Why are you trying to limit the time for the people of this province to speak to us concerning their views on the Meech Lake Accord?

Mr. Filmon: Mr. Speaker, it is not I who is attempting to limit the time of the people of Manitoba to appear before a committee. We could have had two more days of public hearings had it not been for the procedural options that were used by the Member for Rupertsland (Mr. Harper). That is his choice. It is his democratic right to do so, and I would defend his democratic right to do so. When it comes to suggesting that he is interested in hearing the people, the only way we can do that is by following our process and allowing the people to be able to speak.

Mr. Speaker, it is not I nor my Government who chose to do the things that were done in the course of the deliberations that First Ministers took last week. Firstly, his former Leader, his former Premier, participated in the original Meech Lake process, which was not the subject of any public hearings or any public consultations.

At least I can assure people in this Legislature, in this province, and in this country, that every single idea, thought and word that was discussed in the course of the public hearing process that we had in Manitoba last year, and was contained in the Meech Lake Task Force Report, was put on the table as part of the agenda of the last week's deliberations.

In that respect, people of Manitoba and this Legislature can feel proud of their efforts and their input to the process, Mr. Speaker, and that opened it up substantially more than it ever was when his former Leader and former Premier, of the Cabinet in which he was a part, participated in the 1987 round.

Deadline Extension

Mr. Elijah Harper (Rupertsland): Mr. Speaker, I might tell the Premier (Mr. Filmon) that when the first Meech Lake Accord was being introduced, the former administration never introduced the accord. At that time we were going to go to the public process.

My question to the Premier is—a deadline is coming very close, a matter of days—is he prepared to extend the deadline beyond June 23? He may explain to the people of Manitoba whether that is possible.

Hon. Gary Filmon (Premier): Firstly, Mr. Speaker, let us be absolutely clear that his former Leader, his former Premier, Howard Pawley, with the advice and consent of his Cabinet people who were with him and supported him, signed the original Meech Lake Accord and agreed to introduce it for passage in this Legislature, and that was the process that they chose to follow in 1987.

I might say to the Member for Rupertsland (Mr. Harper) that I signed a very specific undertaking in this document that said, and I quote: The Premiers of New Brunswick, Manitoba and Newfoundland undertake to submit the Constitution Amendment, 1987 for appropriate legislative or public consideration and to use every possible effort to achieve decision prior to June 23, 1990.

I did not commit to pass it. I did not say that we would avoid any processes. I said we would introduce it for appropriate legislative or public consideration and to use every possible effort to achieve decision prior to June 23, 1990, Mr. Speaker.

I have indeed said to the people of Manitoba that we have a process that we will respect, that we will ensure will be undertaken in the fullest possible extent prior to any decision being made. That is the opportunity that the Member for Rupertsland (Mr. Harper) has to ensure that his people, his constituents and everyone else within the process is heard if he chooses to have that democratic process followed.

Assembly of Manitoba Chiefs' Meeting Premier's Attendance

Mr. Elijah Harper (Rupertsland): I would like to ask the Premier (Mr. Filmon) why he did not attend the Chiefs' meeting, the Assembly of Manitoba Chiefs, yesterday at the Fort Garry Place?

I think it was very important for him to attend that meeting because they wanted to hear from the First Minister (Mr. Filmon). I would give him that opportunity to explain why he did not attend that meeting. I am sure that the aboriginal people would appreciate his explanation.

Hon. Gary Filmon (Premier): Mr. Speaker, I am very happy to respond to that question. I was unable to attend because of a previous commitment yesterday. I might say for the benefit of the Member for Rupertsland (Mr. Harper) that I had offered to meet with the leadership of the aboriginal peoples on Monday at 4:30 p.m., and some of the aboriginal leaders did appear. The representatives of the Manitoba Metis Federation did appear at that time, but other representatives chose not to.

I again agreed, as was presented to me by the Leader of his Party, the opportunity to meet with them at 8:30 a.m. on Tuesday morning. I agreed to that time, and again that meeting was not proceeded with, not by my choice but by the choice of the aboriginal leaders as I understand it. Finally, the time that I was given notice for, about two and a half hours, to appear at that meeting, I was unable to change my plans to do that.

* (1410)

I might also say that I offered to take with us to Ottawa Mr. Phil Fontaine, the head of the Assembly of Manitoba Chiefs. He chose not to attend with us and to be a part of our Manitoba delegation as an observer in that process, Mr. Speaker. I regret that, because we do want indeed to have the input and the presence and the participation of the aboriginal peoples in our process of making decisions, the best decisions we can make for the people of Manitoba and particularly for the aboriginal people of Manitoba.

Meech Lake Accord Aboriginal People Inclusion

Mr. Elijah Harper (Rupertsland): My question is to the Premier (Mr. Filmon) again. According to Dr. Eugene Forsey, an outstanding constitutional expert, he has said that the deal on Meech Lake signed last Saturday "is not worth the paper it is written on." He said the document is almost totally useless and also mentioned that the aboriginal people got nothing except vague promises, discussions. How can the Premier (Mr. Filmon) think that he achieved anything for aboriginal people?

Hon. Gary Filmon (Premier): Well, Mr. Speaker, I guess that we had achieved some good things on behalf of aboriginal peoples, as I outlined earlier today in Question Period in some detail, just as the Member for Rupertsland's Leader in this House thought similarly,

as did the Leader of the Liberal Party. We all expressed the thought that those things that we had worked together for a full week to achieve were better than what we had in going in to the meetings.

Part of it, of course, involves the goodwill of the Legislatures throughout this country to carry through the commitments that have been made by their Leaders by way of passage of the companion resolution. Of course it will be the responsibility of this Legislature to decide whether or not it wants to pass that companion resolution to ensure that we entrench the aboriginal constitutional conferences that the aboriginal people have said for so long that they want and to ensure that we entrench a process that will lead to a Canada clause to give suitable recognition to the aboriginal peoples of this province and this country. It is only through that process that we can help to achieve those goals that the Member for Rupertsland (Mr. Harper) I know is so committed to.

Meech Lake Accord Native Affairs Minister Involvement

Mr. Elijah Harper (Rupertsland): Mr. Speaker, I would like to direct a question to the Minister of Native Affairs (Mr. Downey). Could he advise this House and the people of Manitoba, the aboriginal people, as to what role he has played in this whole process?

Hon. James Downey (Minister of Northern and Native Affairs): Mr. Speaker, let me first of all say that I have had the honour and privilege of over the last two and a part years to have represented the aboriginal people in the caucus of the Premier of the Province of Manitoba. I believe very firmly that the direction he has taken, that our Government has taken, and the support that I have tried to give to the aboriginal people, has been of genuine concern and fullest effort that I have been able to provide to his people who I fully and truly have learned to respect and have a great appreciation for.

Mr. Harper: I have a supplementary question to the Minister of Northern Affairs. Is he recommending this Meech Lake package and the accord that will be presented at some time to the aboriginal people of Manitoba?

Mr. Downey: Mr. Speaker, I believe the Member has heard what the Premier (Mr. Filmon) has said on how the parallel accord, the companion accord, will be dealt with as we proceed to hear the people of Manitoba. I expect to hear over the next few days when we get into the hearing process the concerns that are being brought forward and the opinions of those people as it has been presented by his Leader, the Leader of the Liberal Party and our Premier when it goes to those public hearings.

Native Affairs Minister Position

Mr. Elijah Harper (Rupertsland): My supplementary question is to the Minister of Northern Affairs (Mr. Downey) again. At this time, over the last few days the

Minister has heard a number of concerns of aboriginal people regarding the fundamental characteristics of Canada and to be recognized as founding people.

Will he take a strong stand to his Government, make that recommendation that would include aboriginal people? Will he take that stand and use all his influence and authority to his Premier so that it be recognized, our rightful place in Canada?

Hon. James Downey (Minister of Northern and Native Affairs): Mr. Speaker, I am sure that the Member for Rupertsland (Mr. Harper), who again was a Member of a Cabinet with a Leader of a Party who put their best efforts forward to present to the people of Manitoba, of which he was a part of—I am putting my best efforts forward not only as it relates to the parallel accord, but the conditions of the aboriginal people in this province, whether it is through education, health and general improvements and having a greater say in society and a better life for their young people, respect for their elders.

I have to say, Mr. Speaker, there is one thing that I have learned of the Native people in this country. That is the respect for their Creator, their love for their children and the need for guidance from their elders. I take that very seriously and I believe all of society could learn a lot from the aboriginal people in that regard.

Meech Lake Accord Justice Minister Involvement

Mr. Elijah Harper (Rupertsland): Mr. Speaker, I know that the people could learn a lot from our elders, but they are not being listened to.

My question is to the Attorney General (Mr. McCrae). He was part of the delegation that went to Ottawa dealing with the Meech Lake Accord. Can he advise the people of Manitoba and the aboriginal people in Manitoba as to what role he was involved in?

Hon. James McCrae (Minister of Justice and Attorney General): Mr. Speaker, a year ago I was asked to serve on the Manitoba Task Force into the Meech Lake Accord. That task force travelled throughout Manitoba and listened to Manitobans, including aboriginal Manitobans. The task force prepared a report which was agreed to by the members of the task force. That report formed the basis for the discussions in Ottawa during that long week of discussions.

My part, which is what the Honourable Member is asking, was to assist the Premier (Mr. Filmon), to try to ensure that the Premier had remaining on the table for those discussions the issues dealt with in the Meech Lake Task Force. My part was shared with the Leader of the Opposition (Mrs. Carstairs) and the Leader of the New Democratic Party (Mr. Doer), the Honourable Member's Leader, in seeing to it that the Manitoba delegation could achieve as much as is possible out of the Meech Lake Task Force. I also served the Premier in the context of my responsibilities as Minister responsible for Constitutional Law, and I also served in the sense to try to be there to keep the Premier

informed on what I felt might be the views of other Manitobans with regard to the discussions going on in Ottawa.

Aboriginal People Participation

Mr. Elijah Harper (Rupert'sland): My supplementary question is to the Attorney General again. The aboriginal people have never asked for a separate process on constitutional matters. What they have asked for is to participate at future constitutional conferences—all constitutional conferences—because it affects them on economy, whether it be fishing, et cetera.

Does he know that was a recommendation that the aboriginal people were putting forward? If he did not, will he support the aboriginal people that they be full participants in the equal participation at those conferences?

* (1420)

Hon. James McCrae (Minister of Justice and Attorney General): Mr. Speaker, the Premier (Mr. Filmon) worked diligently and hard, as the Honourable Member and others will know, for many, many hours. The Premier served the people of this province, the aboriginal people and all the other people of this province, not only the people of this province but the people of this country, admirably and well. The Premier demonstrated a strength of character that I must tell the Honourable Member I have never seen before in my life.

Native Ceremonial Items Seizure - Eagle Feathers

Mr. Elijah Harper (Rupert'sland): I have a new question for the Attorney General and it is not dealing with a constitutional question. I believe it was yesterday or two days ago an aboriginal man was—his items were seized by the Winnipeg Police and it has to do with the eagle feathers. The seizure of the religious items containing ceremonial eagle feathers from a Winnipeg man on the advice of the Department of Natural Resources, I believe is the most blatant example of why my fight for my people must continue.

Will the Attorney General investigate this matter as soon as possible? I have an eagle feather that was presented to me and this eagle feather is not a sign of petition I think, but it is part of my culture. Will he investigate this matter as to why the police seized the eagle feathers from this man?

Hon. James McCrae (Minister of Justice and Attorney General): Mr. Speaker, I will give the Honourable Member my commitment that the matter will be investigated thoroughly, sensitively, and that a full report will be made available to me.

Native Ceremonial Items Seizure - Eagle Feathers

Mr. Elijah Harper (Rupert'sland): My question is to the Minister of Natural Resources (Mr. Enns). I am

advised that why the police went and confiscated these items was on the advice of the Natural Resources personnel. Will he advise this House what policy he has on eagle feathers and also assure the aboriginal people that this practice of policy will not continue?

Hon. Harry Enns (Minister of Natural Resources): Mr. Speaker, I am pleased to remind the Honourable Member for Rupert'sland (Mr. Harper) that I believe he, as indeed all Members of this House, passed with some enthusiasm an Act that I was proud to present, The Endangered Species Act. Under that Act there are certain conditions that prevail with respect to possession of parts of species that have been so designated.

I have acted promptly by returning the feathers in question to Mr. Assiniboine. I recognize the value, the cultural, spiritual value of those objects. I cannot fault my officials for in fact carrying out the fine print of the Act, but I am more than willing to invite the aboriginal members to be represented on a board, yet to be appointed, that would administer that Act, so that in fact we can be sensitive to the cultural importance that may at some times be at cross purposes with the Act that he, along with his Party, and I believe all other Members of this House, passed with some enthusiasm just a few months ago.

Mr. Speaker: The time for Oral Questions has expired.

POINT OF ORDER

Mr. Speaker: I will deal now with the point of order that the Honourable Member for Rupert'sland has indicated and wants dealt with.

The Honourable Member for Rupert'sland.

Mr. Elijah Harper (Rupert'sland): Thank you, Mr. Speaker.

My point of order relates to the resolution of the First Minister (Mr. Filmon) and Government House Leader (Mr. McCrae) appearing on today's Order Paper. These motions, Mr. Speaker, appear to be out of order because no notice was given.

On Tuesday, June 12, Order Paper and Notice Paper No. 145 was distributed. It contained no notice of motion. I have a copy available for you here. To my knowledge, this Order Paper was the only one distributed to the MLAs on Tuesday before the adjournment of the House. It was the Order Paper and Notice Paper for Tuesday's sitting.

As you are aware, Mr. Speaker, our Rule No. 51, contained in our rule book, requires that two days notice be given of a motion for placing a question on the Order Paper. That is the requirement for every motion regardless of its content or intent. Indeed, Sir, you have supported that rule for the past two days. We recognize your courage and commitment in upholding all the rules of this House and protecting the rights of all Members.

Rule 51 is strict because, as Rule 52 emphasizes, the requirement for two days notice can only be waived

by the unanimous consent of the House; in other words, failure to give two days notice cannot be later perfected by this House.

Mr. Speaker, some Members may feel that the current time constraints justify disregarding the rules. That cannot be the reason to abandon our rules. There are legitimate ways within our rules—for example, unanimous consent to streamline or override the established practices of the House. In the absence of such action, the rules as written must be obeyed and enforced. This is an important democratic safeguard.

Accordingly, absent unanimous consent, the First Minister's motions appearing on today's Order Paper have been placed without the required notice because the motion did not come to the attention of this House before the adjournment on Tuesday. I ask they be struck from today's Order Paper.

Mr. Speaker, I also want to comment on a development that happened later on Tuesday. Sometime following the adjournment of the House on Tuesday a revised Order Paper was apparently distributed, presumably in the hope of trying to salvage the Notice of Motions of the First Minister. This second Order Paper was not distributed in this Chamber, at least to my knowledge. I, for one, have not received, or been able to receive, two days notice. Surely the requirement for the notice set out in Rule 51 does not contemplate that the notice is effective if made after the House adjourns for the day. The Members have left and some ineffective Order Paper later appears around the halls of this building.

Finally, Mr. Speaker, all the Notices of Motion appear to be invalid for that reason. The Notices of Motion of both the First Minister (Mr. Filmon) and the Government House Leader (Mr. McCrae) were not filed with the Clerk before the adjournment of the sitting previous to Tuesday's. Rule 51(2) states that: "The notice shall be filed with the Clerk before the adjournment of the House for the day, and shall be printed on the Notice Paper and shall be placed in the Order Paper two days afterward." This means that placing a motion on the Order Paper is a three-step process: No. 1, the notice is filed with the Clerk before the adjournment of a sitting; No. 2, at the next sitting it appears on the Notice Paper; and No. 3, it appears on the Order Paper two days later. This is a well-known established practice of this House.

* (1430)

Step No. 1 is essential to that process. It is so essential that the Clerk's Office refuses to accept the filing of notices, even a few minutes after the adjournment. It ensures that the next day's Notice Paper can be printed and distributed to Members.

Further, it is an essential component of parliamentary democracy that rules be observed strictly. Otherwise, we are governed on the basis of favour or purely bloody oversights. Step No. 1, however, was not complied with because there was no sitting between the First Minister's return from Ottawa on Tuesday.

Now, Mr. Speaker, I want to deal specifically with the motions of the Government House Leader (Mr. McCrae).

On Tuesday, June 12, two pieces of paper were distributed in this House on which were typed at the top, and I quote, "Addendum to the Order Paper No. 145 of June 12, 1990." Below are the typed words, and I quote, "Moved by Honourable Mr. McCrae, Seconded by"—whoever it is—end of quotation, and forms of resolutions appeared below. Today these two resolutions appear on the Order Paper.

Mr. Speaker, if on Tuesday these two documents were supposed to be Notices of Motion, they failed in that regard because, No. 1, they were not appended to the Notice Paper; No. 2, they were not filed with the Clerk at the previous sitting; and No. 3, they are not in the proper and well-established form for Notices of Motion, which do not say, and I quote, moved by, et cetera. These documents do not qualify as Notices of Motion. Nowhere is it indicated that they are Notices of Motion.

Mr. Speaker, I will quote from Beauchesne's 6th Edition, Page 3, where the basic purposes and principles of parliamentary law are set to include ". . . to give abundant opportunity for the consideration of every measure, and to prevent any legislative action being taken upon sudden impulse."

Mr. Speaker, proper notice is a critical safeguard of our rights and abilities as Members to effectively deal with public business. It is simple fairness. This is so much more the case where complex constitutional matters are at hand. Our rules and procedures were developed over hundreds of years to protect all Members. They are the basic guardians of the rights of Members, and I believe also of my constituents, the people I represent.

This is not a time for illegalities, for breaking rules. It is time for order. It is a time for due process. Because of the significance of the issues before the nation, some may argue that the rule should not bend to accommodate the urgencies of the day. However, Mr. Speaker, it is precisely because of that significance to us all that the rules must be upheld in this case. They must stand firm.

Mr. Speaker, today you are a part of a long history of Speakers who have defended the rules of the House and the rights of Members which has made the Legislature effective and the envy of all systems. This moment does not stand done nor will it be forgotten. I understand the pressures on you. I feel them no less myself today.

I also believe, Mr. Speaker, that if the Chair should hold that the proper notice was given that decision will stand as timeless precedent in this House. Members will no longer enjoy the right to two days notice contrary to the printed rules. Members will be filing their motions with the Clerk well after the Notice Paper is printed and distributed and well after the sitting day on the day of the motion. This will fly in the face of our rules and rulings of this House. It would make mockery of the certainty and value of this rule book.

Mr. Speaker, I ask that the motions of the First Minister (Mr. Filmon) and the Government House Leader (Mr. McCrae) be struck from the Order Paper and that the First Minister and the Government House Leader

be advised to comply with the written rules of this Assembly regarding proper notice if they wish the motions to be considered.

Mr. Speaker: The Honourable Government House Leader (Mr. McCrae), to the same point of order.

The Honourable Member for Thompson (Mr. Ashton), to the same point of order.

Mr. Steve Ashton (Second Opposition House Leader): Yes, to the same point of order, Mr. Speaker. I must, in addressing the point of order, stress that I think we all feel a terrible burden we are dealing with, with matters such as this Canadian Constitution, the shortage of time that we have to follow, the difficult situation we have been placed in. I know some of us feel a particular burden, in terms of some of the concerns that have been expressed by the Member for Rupertsland (Mr. Harper) and the people that he represents, the last number of days. I know it has been going longer than that, but people are listening the last number of days.

I find there is a subtle irony in the fact that our only Native Member of the Legislature is asking one thing from you, Mr. Speaker, and that is right now to rule on the legitimacy of the process that we are following, to interpret our rules and our traditions. I say it is ironic because the history of Native people, I believe, in Manitoba and Canada has been one of trust, trusting relationship, the rest of Canadians, established in a treaty system, a system of aboriginal rights. I know at times there is a real question amongst Native people as to whether that trust has been returned. I think when we are dealing with this, essentially we are dealing with whether we are following the legitimate process or not.

I believe you, Mr. Speaker, have to deal with the point of order raised by the Member for Rupertsland (Mr. Harper) in that context. If our constitutional changes are to have any legitimacy it has to be through the proper process.

Mr. Speaker, I remember the First Minister (Mr. Filmon), earlier on during Question Period talked about using every possible effort to achieve a decision prior to June 23, 1990, and I know as House Leader in the New Democratic Party, that I can indicate that I believe there is a consensus in terms of doing that. There is different interpretation as to what is legitimate. The First Minister indicated he did not feel the Member for Rupertsland (Mr. Harper) denying unanimous consent was legitimate.

Those are matters for political debates, Mr. Speaker, but when we are dealing with the Constitution, there is a bottom line. We have to know whether the process we are following is legitimate. I am not talking about the political process, because I think we all have some very real questions about the legitimacy of the process.

I do not blame anyone in this Chamber. I blame the Prime Minister. We are in a horrendous situation, in the sense that agenda has been thrust on us.

The Member for Rupertsland (Mr. Harper) quoted some of the precepts of parliamentary law. I just want

to read to the Members of the House some of the other parts of that, because I believe it is of fundamental importance when we are dealing with this matter.

“The principles of Canadian parliamentary law are: To protect a minority and restrain the improvidence or tyranny of a majority; to secure the transaction of public business in an orderly manner; to enable every Member to express opinions within limits necessary to preserve decorum and prevent an unnecessary waste of time; to give abundant opportunity for the consideration of every measure, and to prevent any legislative action being taken upon sudden impulse.”

* (1440)

Mr. Speaker, I say to the Prime Minister, who should be the first and foremost parliamentarian, who should understand parliamentary procedures, that he is putting us in a dilemma in Manitoba in terms of our parliamentary procedures.

I cannot advise you with anything other on this very important decision other than to do what is right in terms of the parliamentary system. Without the parliamentary system, Mr. Speaker, we have no process, because the parliamentary system is the underpinning of everything, our laws, yes, our Constitution.

So I say to you, Mr. Speaker, I believe it is important for a clear ruling on the legitimacy of points raised by the Member for Rupertsland (Mr. Harper). I say to all Members of this Legislature, and I hope the message will go beyond, that here in Manitoba, and I am sure I speak for all Members of this Legislature who are respecting a parliamentary process, respecting the process that we have adapted here in Manitoba—that also includes direct consultation of members of the public, we realize it is a terrible burden, a burden for all of us. It is a burden for this whole province. It is a burden for this whole country.

It is certainly a burden for you, Mr. Speaker, having to rule on matters of such significance here, but we need that ruling. We need to determine, beyond a shadow of a doubt, whether the proper procedure has been followed.

If it has, then we can move ahead. If it has not, I hate to think of the situation we are in. I hate to think of the situation we are in, because I know in this House and in this province, yes, commitments made with full consideration, that is full consideration under the parliamentary system, rules and laws that we operate under, and not only in Manitoba but in Canada as a whole, I hope people understand what is happening.

It is respect for those rules, Mr. Speaker—and coming from the Member for Rupertsland (Mr. Harper), speaking for Native people, who I have the deepest respect for, who I know respect our traditions probably better than anyone in society, I believe it is important that we listen, rule and determine, in terms of legitimacy, the process we are following.

Mr. Speaker: The Honourable Government House Leader, on the same point of order.

Hon. James McCrae (Government House Leader): Yes, Mr. Speaker, again on the point of talking about

the rules, the issue of timeliness is an important part of our rules and an important part of our traditions in this House and in every House across this country.

If the Honourable Member for Rupertsland (Mr. Harper) had some kind of concern about notice, he should have raised that on Tuesday, Mr. Speaker. He should have raised it again yesterday when the House sat. He opted not to do that, but after having given - (interjection)- if we could have a little decorum in this House, it might be helpful for me.

Mr. Speaker: Order, please. The Honourable Government House Leader.

Mr. McCrae: As I said, Mr. Speaker, if the issue was a matter of concern for the Honourable Member, the opportunity was there for him on Tuesday. The opportunity was there for him on Wednesday as well, so the Honourable Member's argument fails on the issue of timeliness alone.

In addition, it had been my understanding and that of both Opposition House Leaders that the resolutions on Honourable Members' desks on Tuesday was adequate notice under the rules and de facto was adequate notice. The Honourable Member has held us to the 48-hour rule for the ensuing 48 hours. We are here today to debate a matter and to do the business of Manitoba and to do the business of the nation, Mr. Speaker. I suggest we get on with it.

Mr. Speaker: I would like to thank all Honourable Members for their advice. The Honourable Member for Rupertsland (Mr. Harper) has raised a very, very complex point of order. At this time I am going to recess the House for approximately 15 minutes. I will ring the buzzer for a minute prior to entering the Chamber. This House is now recessed.

RECESS

* (1733)

SPEAKER'S RULING

Mr. Speaker: First of all I would like to apologize for taking so long. Similar to the First Minister when he went for dinner and came back a week later, I went for 50 minutes.

We did have to wait. We waited for a Hansard printout, so that did take up some time. I have reviewed the

points raised by the Honourable Member for Rupertsland (Mr. Harper) and have concluded that they are valid. The notices of the motions did not appear in the Order Paper distributed in the House on June 12, and as he pointed out the revised Order Paper was not distributed to Members prior to adjournment, although it was in the Chamber ready for distribution.

The addenda were, as he also points out, not attached to the Order Paper, nor were they in the acceptable format of the Notice Paper, although they were on Members' desks prior to the start of the sitting.

In ruling that there is a valid point of order and that the motions in question are not properly before the House today, it is important because of the seriousness of this issue, in order to ensure that every step in the process is totally above question, to guard against any possibility of a subsequent court challenge to the validity of the actions taken by this House.

Rule 51(2) reads as follows: "The notice shall be filed with the Clerk before adjournment of the House for the day, shall be printed in the Notice Paper and shall be placed on the Order Paper two days afterward." The effects of this rule were modified by Speaker Phillip's statement of June 5, 1986, respecting compliance with the Supreme Court of Canada judgment in the Manitoba language reference case which included the following: "notices of motion filed with the Clerk's Office not later than 5:30 p.m. will appear in the Notice Paper on the 2nd day following filing: . . ."

Therefore, the five motions referred to by the Honourable Member are improperly before the House today and may not be proceeded with at this time. Of course, the Government may again file the motions with the Clerk's Office.

Hon. James McCrae (Government House Leader): Mr. Speaker, I wonder if there would be leave to waive Private Members' hour today?

Mr. Speaker: Is it the will of the House to waive Private Members' hour? Is there leave? Is it agreed? No, there is no leave.

Is it the will of the House to call it six o'clock? Agreed? (Agreed)

The hour being 6 p.m., this House is now adjourned and stands adjourned until 10 a.m. tomorrow (Friday).