

**Indian Residential Schools Resolution Canada
Media Clips**



**Résolution des questions des pensionnats indiens Canada
Actualité**

Friday, April 13, 2007 ♦ vendredi, 13 avril 2007

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First Nations' interests well-served by charter

[Doug Cuthand, The StarPhoenix](#) (page A13; Forum)

April 17 is the 25th anniversary of the Charter of Rights and Freedoms in Canada but the federal **government** has no plans to mark the event.

Prime Minister Stephen Harper and three cabinet ministers so far have turned down invitations to speak at a major Ottawa conference to recognize the anniversary. It's a disturbing indication of the **government's** lack of commitment to the charter and a lack of respect for the rights enshrined in it.

Since it was signed into law, the Charter of Rights and Freedoms has been a defining document for Canadian democracy. The charter has been used by disadvantaged groups such as the disabled, women, gays and **aboriginals** to ensure that their rights are recognized and protected.

The Conservative **government** has never championed the charter, a fact underlined by its cutting of the Charter Challenges Program.

This modest program provided money to groups so they could retain lawyers and researchers to mount legal challenges under the charter to perceived injustices directed at them.

Back when Harper was the president of the National Citizens Coalition, he used a charter argument to ask the Supreme Court to strike down federal provisions that restricted third-party election advertising. With third-party advertising, well-funded special interest groups could promote their own points of view by getting around restrictions on advertising by political parties.

He lost the case. As prime minister, he sees little value in the charter, because it didn't work for him.

However, the charter has worked for us. **Aboriginal** people have been especially successful in bringing forward cases that involve **aboriginal** and **treaty rights**. The Sparrow case protected our **hunting** rights, Delgamuukw defined **aboriginal title** and Corbiere extended our rights outside reserve boundaries.

However, when the courts ruled in our favour, detractors in the former Reform Party of Canada blamed "activist judges" in an attempt to cheapen the strength of our win.

The Charter of Rights and Freedoms was a part of the patriation of the Constitution in 1982. At the time, **First Nations** fought against the patriation of the British North

America Act. Britain technically held our Constitution and would have to give its consent to amend it. This was unacceptable for Canada so it had to be brought home.

However, **First Nations** saw it differently, since it meant severing a link with the Crown with which we had signed the **treaties**. We fought the battle on two fronts. Individuals lobbied Britain's House of Commons and groups lobbied in Canada for recognition of our **treaty** and **aboriginal rights**.

The lobby in England upset the Liberal **government** of the day and officials ran interference and counter-lobbied. We must have made an impact in Britain, because negotiations proved successful. Our **treaty** and **aboriginal rights** were placed in section 35 of the Charter of Rights and Freedoms.

When the charter was first put in place, our leaders stated that it didn't define our rights but gave us the right to go to court. So we went to court, and the result is a string of victories.

In fact, the courts were a better ally to **First Nations** than was the political process. Three **first ministers** conferences were called to try to define **treaty** and **aboriginal rights**. **Self-government** was another issue that tripped up the premiers. In the end, little was accomplished.

The third conference was especially frustrating, as the premiers refused to come to any agreement. The wrap-up on the final day proved to be Saskatchewan **Metis** leader Jim Sinclair's finest hour.

Sinclair told the premiers what so many people across Canada wanted to say. He accused them all of standing in the way of progress but saved his best remarks for former premier Grant Devine. He accused him of getting a billion dollars of federal money and buying an election.

The revenge was swift, as provincial funding was cut off for the Saskatchewan **Metis** organization. Sinclair's remarks were later recorded with music in the background and became a successful underground record in **Indian** Country.

The charter is a hard-won piece of legislation and has served the **First Nations** and **aboriginal** people well. What has always been lacking is follow-up, with governments refusing to act on the positive aspects of our legal victories. For example, the **Corbiere decision** recognized that **aboriginal rights** exist beyond reserve boundaries, but nothing has been done to establish a federal presence to provide services for our people in urban centres.

That work still has to be done. Our leaders across Canada have to pressure the federal **government** to live up to the hard-won court decisions in our favour.

It's been a short 25 years since the charter came into effect but we have advanced light years in legal recognition of our **treaty** and **aboriginal rights**. The challenge is to bring them to reality.