

**Senator Mira Spivak Raises a Question of Privilege on Gatineau Park Boundaries,
Senate Debates, Tuesday, November 22, 2005, pp. 2132-2134**

Honourable senators, my question of privilege concerns responses to Order Paper Questions about the boundaries of Gatineau Park. The privilege afforded parliamentarians to place questions on the Order Paper and to receive prompt and accurate responses from the government is not to be taken lightly. It is a privilege that predates the Access to Information Act, and it is a privilege that only we and members of the House of Commons enjoy.

On occasion, the responses we receive may not be as prompt as we would want. On occasion, they may appear too general or to be skirting the real question. However, we do not expect the answers given to senators to be in full contradiction of the answers given to members of the House of Commons.

I raise, as a matter of privilege, the example that came to my attention last week when a response was tabled in the House of Commons to a question about the boundaries of Gatineau Park placed on the Order Paper by the Member of Parliament for Ottawa Centre.

We have both been pursuing the matter quite independently because, as the private member's bill introduced last week says, Gatineau Park is the only major federal park that is not protected under the National Parks Act and whose boundaries are not established by federal statute. Moreover the park, only a few kilometres from Parliament Hill, is the only federal park that can have portions of its territory removed without the knowledge, review or approval of Parliament.

I had hoped, by now, to have introduced a bill that would have established that parliamentary oversight, but others have been keeping our law clerks very busy.

While preparing for that bill in December 2004, I placed three basic questions on the Order Paper and one very specific question. The three questions on the parks boundaries asked: What changes had been made since 1992; by what mechanism had they been set and recorded; and what was the rationale for each?

A response, signed by the Minister of Canadian Heritage, told of a September 1995 decision by the executive committee of the National Capital Commission to rationalize “the park’s legal boundary” with a number of factors. It made explicit reference to “a) The legal boundary of the Park established by Federal OIC (Order-in-Council) in 1960.”

It also spoke of an NCC 1998 submission and other documents identified as a submission to Treasury Board saying:

In 1998, the NCC's submission on the rationalization of Gatineau Park’s former legal boundary was considered and the new legal boundary of the Park was approved.

Any reasonable person reading that response would infer that if the park's boundaries are not established in statute and protected by parliamentary oversight, they are at least established by an Order-in-Council of 1960 that was in some fashion amended through the 1998 submission by which “the new legal boundary of the Park was approved.”

Clearly that is what the Member of Parliament for Ottawa Centre inferred when, in September, he placed questions on the Order Paper asking (a) how many times have the park's boundaries changed since they were set by Order-in-Council in 1960; (b) were those changes made by Order-in-Council and if not why not; (c) and by what methods were they changed?

The response he received last week was:

The 1960 Order-in-Council did not establish the Park boundary, but rather provided authority to the National Capital Commission (NCC) to acquire lands for park purposes within an area shown by a wide shaded line on a plan attached to the Order-in-Council.

That is the first clear contradiction. I am told that the 1960 Order-in-Council established the boundary. He is told that it did not.

The member of Parliament was further told that the NCC has authority under the National Capital Act to construct, maintain and operate parks, and it was pursuant to that authority that:

... the NCC approved the new boundary of Gatineau Park on November 20, 1997, on condition that the boundary for the Meech Creek Valley be considered only provisional at that time.

That is the second contradiction. Although my question specifically asked about any mechanism through which the boundaries have been set and recorded, there was no reference in the response to me about the NCC approving the new boundary in November 1997.

Finally, the Member of Parliament for Ottawa Centre was told:

The February 1998 Treasury Board submission was required, not to define the park's boundary but in order to have all lands within the new Gatineau Park boundary designated under the National Interest Land Mass.

That is the third clear contradiction. I was told that the submission was considered and the new legal boundary was approved. He was told that the approval came a year earlier by the NCC only and the 1998 submission was only a housekeeping matter.

It would be tempting to dismiss these clear contradictions simply as large errors or the work of the uninformed. However, this is not the first time that a senator has received a misleading response to a question about Gatineau Park.

In October 2003, Senator Lapointe sent written notice of a question about an agreement between the NCC and the operators of Camp Fortune ski centre specifically regarding a requirement to file an annual activity plan and whether those plans had been filed. He was told clearly that the operators had “provided operating plans in accordance with the obligations of the lease.” Then an access to information request found that they had not between 1999 and 2002.

I believe that the right of any senator to place questions on the Order Paper or to ask questions on the floor or to send written notice of a question and to receive an accurate response is a very important privilege. Therefore, the receipt of inaccurate information, perhaps wrongful information, is a grave and serious breach.

It is especially so in the context of preparing legislation to be introduced in this chamber or in the other place. I mentioned that the Member of Parliament for Ottawa Centre had introduced a bill. His other Order Paper question asked for the “metes and bounds,” the legal description of the legal boundaries of Gatineau Park, and he was informed that no such description exists. He was informed that the most recent complete description is simply a compilation of the legal survey plan set out in the Treasury Board submission of 1998.

Mr. Broadbent was forced to use the Government of Quebec's legal description of a Gatineau game sanctuary, which almost coincides with the supposed non-boundary of the park.

The Leader of the Government in the Senate may have a particular interest in getting to the bottom of this breach. Last May, he sent our Energy and Environment Committee chairman a copy of the letter he had received from the Chairman of the NCC. Senator Banks distributed it to all committee members.

The NCC chairman wanted to set out mechanisms to protect the park. He wrote of the NCC enabling legislation, an international designation, several master plans and classification under the National Interests Land Mass. He mentioned no Order-in-Council or Treasury Board submission or November 1997 decision solely by the NCC on the park's boundaries.

Honourable senators, I hope that the Speaker will agree that a privilege has been breached, that I have raised it at the earliest opportunity, that the breach is serious and that a remedy can be found, which I suggest would be a referral to the Rules Committee to investigate how clearly contradictory information was sent to this place and the other place. If the Speaker so rules, I will make a motion.