



**HOUSE OF COMMONS
CHAMBRE DES COMMUNES
OTTAWA, CANADA**

39th Parliament, 2nd Session

39^e Législature, 2^e Session

The Standing Committee on Environment and Sustainable Development has the honour to present its

Le Comité permanent de l'environnement et du développement durable a l'honneur de présenter son

SIXTH REPORT

SIXIÈME RAPPORT

Pursuant to Standing Order 108(1), your Committee wishes to present the following reasons for not having completed the study of Bill C-377, *An Act to ensure Canada assumes its responsibilities in preventing dangerous climate change*.

Le Comité souhaite expliquer de la façon suivante, conformément au paragraphe 108(1) du Règlement, pourquoi il n'a pas terminé l'étude du projet de loi C-377, *Loi visant à assurer l'acquittement des responsabilités du Canada pour la prévention des changements climatiques dangereux*.

The Bill was referred to the Committee on October 16, 2007. The Committee commenced consideration of the Bill on December 11, 2007 and heard evidence from 25 witnesses representing 23 groups. The Committee commenced clause by clause consideration of the Bill on March 3, 2008 and sought a thirty day extension from the House of Commons pursuant to Standing Order 97.1(1) on March 5, 2008. The House of Commons approved the extension on March 12, 2008.

Le Comité a été saisi du projet de loi le 16 octobre 2007. Il a commencé à l'étudier le 11 décembre 2007 et a entendu 25 témoins représentant 23 groupes. Il en a commencé l'étude article par article le 3 mars 2008, et le 5 mars, il a demandé à la Chambre des communes, en vertu de l'article 97.1(1) du Règlement, de prolonger le délai initial de trente jours. La Chambre des communes a approuvé la prolongation le 12 mars 2008.

The Committee adopted clauses 3 to 9 with amendments, postponed clause 1, the Preamble and the Short Title pursuant to Standing Order 75(1) and stood clause 2. The Committee was unable to vote on clauses 10, 11, 12, 13 and 14 due to a prolonged debate of over twenty hours on clause 10 which led the Committee to an impasse.

Le Comité a adopté les articles 3 à 9 avec amendements, reporté l'article 1, le préambule et le titre abrégé aux termes du Règlement 75(1), et réservé l'article 2. Le Comité a été incapable de voter sur les articles 10, 11, 12, 13 et 14 du fait d'un débat prolongé de plus de vingt heures sur l'article 10 qui a mené le Comité dans un impasse.

During debate, the Chair was overruled on two

Au cours du débat, deux décisions de la présidence ont été

procedurally sound rulings. The Committee, as a result, presented a Report to the House of Commons on Monday, April 14, 2008, identifying inherent difficulties in the practice, procedure and rules of the House of Commons which may impinge on the ability of the Committee to carry out its mandate.

Given the impasse, the Committee opted not to consider the remaining clauses and parts of the Bill and adopted the following motion:

That the title, the preamble and clauses 1, 2, 10 as amended, 11, 12, 13 and 14 of Bill C 377, *An Act to ensure Canada assumes its responsibilities in preventing dangerous climate change*, be deemed adopted; that the Bill, as amended, be deemed adopted and that the Chair report the Bill as amended to the House; and that, pursuant to Standing Order 108(2), the Committee prepare a second report describing the circumstances relating to the clause-by-clause consideration of the Bill.

A copy of the relevant *Minutes of Proceedings* (Meetings Nos. [8, 10 to 13, 16 to 19 and 22 to 27](#)) is tabled.

Respectfully submitted,

Le président,

BOB MILLS

Chair

renversées alors qu'elles étaient conformes à la procédure. Le lundi 14 avril 2008, le Comité a donc présenté à la Chambre des communes un rapport dans lequel il décrit les difficultés liées à l'usage, à la procédure et au Règlement de la Chambre des communes qui peuvent empêcher le Comité d'exécuter son mandat.

Vu l'impasse, le Comité a décidé de ne pas examiner les autres articles et parties du projet de loi et il a adopté la motion suivante :

Que le titre, le préambule, et les articles 1, 2, 10 tel que modifié, 11, 12, 13 et 14 du projet de loi C-377, *Loi visant à assurer l'acquiescement des responsabilités du Canada pour la prévention des changements climatiques dangereux*, soient réputés adoptés; que le projet de loi, tel que modifié, soit réputé adopté et que le président en fasse rapport à la Chambre; et que le Comité prépare un deuxième rapport conformément au paragraphe 108(2) du Règlement faisant état des circonstances entourant l'étude article par article du projet de loi.

Un exemplaire des *Procès-verbaux* pertinents (séances n^{os} [8, 10 à 13, 16 à 19 et 22 à 27](#)) est déposé.

Respectueusement soumis,

CONSERVATIVE PARTY'S SUPPLEMENTARY REPORT TO BILL C-377

We, the members of the Conservative Party of Canada, respectfully submit the following Supplementary Report in response to the Standing Committee on Environment and Sustainable Development's report on Bill C-377. Specifically, Conservative members are extremely concerned regarding the lack of any economic analysis or costing to the Bill, its constitutional validity and the manner in which the Bill is being reported back the House of Commons.

Bill C-377 is a dangerous and irresponsible piece of legislation. What the NDP is proposing would require a 40% reduction in greenhouse gas emissions from where we are today. That is simply not possible without causing massive job losses and huge price increases in electricity, heat and gasoline. The costs that this bill would impose on Canadian families and businesses could be astronomical, yet the Leader of the NDP, Jack Layton admitted at committee that he hadn't bothered to find out how much the bill could cost Canadian families in increased gas and energy prices.

Regulatory targets of this nature should be evaluated carefully and logically. For example, the previous Liberal government set arbitrary targets and then did nothing, which were a failure.

Andre Turmel from the Canadian Bar Association raised his concerns to the Standing Committee on the Environment on February 11, 2008, regarding arbitrarily setting targets. He said: *"(targets)... should be linked to and coherent with targets set out in existing international law. The targets in (Bill C-377) are not."*

We can not move forward with a Bill that would shut down the economy. This Government can not impose such costs upon Canadians, especially during uncertain economic times. Financially speaking, reaching the targets proposed in the Climate Change Accountability Act would come at a steep cost to our citizens.

Should we set objectives that we know from the very beginning make little or no sense, objectives that would be impossible to meet without considerably disrupting the Canadian economy? Or should we set realistic and achievable targets that will strengthen Canada's long-term competitiveness, targets that will still represent significant and positive progress in our fight to reduce harmful air pollutants and greenhouse gas emissions? Conservative members agree with the latter.

Our government has been clear that climate change is one of the greatest threats facing the world today. We have brought forward our *Turning the Corner* plan to reduce Canada's greenhouse gas emissions on absolute 20 percent by 2020. This is a realistic and tough target, similar to that being pledged in other countries around the world. Our clear statement of principles has helped to shape Canadian environmental policy both domestically and internationally. Our policy is tough, it is real and it strikes the right balance by protecting our environment while ensuring Canadian families can still put food on the table.

Conservative members have also raised serious questions and concerns about Bill C-377's constitutionality. A major indictment of this badly written bill was delivered on February 11 when six very distinguished legal experts appeared before the Standing Committee on Environment and Sustainable to speak to the legal and constitutional aspects of this bill.

Theresa McClenaghan, Executive Director and Counsel along with Joseph Castrilli, counsel, were there representing the Canadian Environmental Law Association. They were joined by Dr. Peter Hogg of Blake, Cassels and Graydon LLP, Andre Turmel, Secretary, National Environmental, Energy and Resources Law Section and Tamra Thomson, Director Legislation and Law Reform with the Canadian Bar Association and Stewart Elgie, Professor, Faculty of Law with the University of Ottawa. Each of these witnesses were united in their view that Bill C-377 would not withstand a court challenge based either on Peace, order and good government or constitutionality.

Mr. Castrilli stated, and I quote: *"Peace, order, and good government would appear to be less likely to find favour with the Supreme Court as a basis for upholding the constitutionality of the regulatory limits authority of Bill C-377 under any circumstances because of the potential for major impact on provincial jurisdiction to act in a host of areas."*

Respected constitutional scholar Peter Hogg told the committee that C-377: *"The bill enacts no restrictions as to the kinds of laws that are contemplated or the kinds of activities that can be regulated. Such a sweeping grant of authority to the executive is unprecedented outside of wartime and should be a matter of political concern, quite apart from the constitutional issues. However, the constitutional issues are all that I'm concerned with, and they are, in my view, enough to defeat the legislation."* He went on to say; *"My conclusion is that unless the bill is changed in the ways that Mr. Castrilli suggested in his closing phrases—and these would need to be quite radical changes—the Parliament of Canada simply lacks the power to enact Bill C-377. If Parliament were to enact the bill, it would be struck down by the Supreme Court of Canada."*

Another major concern with Bill C-377 is the unprecedented manner in which it is being reported back to the house. On Thursday April 3rd, 2008, the committee adopted the following motion to report back: *"That the title, the preamble and clauses 1, 2, 10 as amended, 11, 12, 13 and 14 of Bill C 377, An Act to ensure Canada assumes its responsibilities in preventing dangerous climate change, be deemed adopted; that the Bill, as amended, be deemed adopted and that the Chair report the Bill as amended to the House;"*

There is great concern about the precedent that will be set by sending the Bill to the House in such a manner. First, the committee using their majority voted to shut down debate and return the bill to the House on April 3rd, 2008, even though the Bill could have remained in committee for further deliberations until May 7, 2008, as per the 30-day extension (sought from the House of Commons pursuant to Standing Order 97(1) on March 4, 2008, and was approved on March 12, 2008).

The Committee adopted clauses 3 to 9 in a respectful manner that included fulsome debate of the many issues in each of the respective clauses and passed several amendments. Conservative Party members expressed serious concerns with the clause 10 along with an amendment, which was adopted. In an attempt to shut down debate completely, opposition members outrageously overruled the Chair on two procedurally sound rulings resulting in a tyranny of the majority.

This openly contradicts a ruling made by the Speaker on Friday March 14, 2008, where he stated: *"...neither the political realities of the moment nor the sheer force of numbers should force us to set aside the values inherent in the parliamentary conventions and procedures by which we govern our deliberations."*

Second, the bill is being reported back to the House half amended and half un-amended. The opposition has done this with the intent of amending the remaining clauses in the House. Essentially the opposition is proposing to use the House of Commons to do committee business regardless of the fact there was more time available in committee to deal with the remaining clauses.

According to Standing Order 76 (5): *"The Speaker shall have the power to select or combine amendments or clauses to be proposed at the report stage and may, if he or she thinks fit, call upon any Member who has given notice of an amendment to give such explanation of the subject of the amendment as may enable the Speaker to form a judgement upon it. If an amendment has been selected that has been submitted by more than one Member, the Speaker, after consultation, shall designate which Member shall propose it."*

Furthermore, the accompanying note to Standing Order 76 (5) states: *"The Speaker will normally only select motions that were not or could not be presented in committee."* It goes on to read, *"For greater certainty, the purpose of this Standing Order is, primarily, to provide Members who were not members of the committee with an opportunity to have the House consider specific amendments they wish to propose. It is not meant to be a reconsideration of the committee stage."*

Conservative members believe there were opportunities to deal with the remaining clauses and amendments before the May 7 deadline. Therefore we respectfully ask the Speaker to summarily dismiss any amendments proposed in the House to Bill C-377.

Submitted respectfully by: Mr. Luc Harvey, MP; Mr. Maurice Vellacott, MP; Mr. Mark Warawa, MP and Parliamentary Secretary to the Minister of the Environment; and Mr. Jeff Watson, MP.

Supplementary Opinion of the Liberal Opposition Members on the blockage of the Climate Change Bill (C-377)

The Liberal opposition members of the Committee on the Environment and Sustainable Development wish to explain further why the Committee was unable to complete the study of Bill C-377 on ensuring that Canada assumes its responsibilities in preventing dangerous climate change.

The House of Commons referred the Bill to the Standing Committee on the Environment and Sustainable Development on 16 October 2007 and the Committee commenced consideration of the Bill on 11 December 2007. The Committee heard evidence from 25 witnesses, essentially economic, environmental and legal experts from government, private sector, academic, non-governmental and legal organizations. The overwhelming majority of the witnesses called for urgent action by parliamentarians to drastically reduce Canada's greenhouse gas emissions. Not only did most of the witnesses provide support for the Bill, but they also proposed solutions where specific concerns were raised about the Bill.

The Committee commenced clause by clause consideration of the Bill on 3 March 2008. The Committee made rapid progress on the amendments proposed by the New Democratic Party, the Bloc Québécois and the Liberals during the first days of clause by clause consideration. These amendments largely addressed concerns raised by the witnesses. Although the government claimed the Bill was flawed because it did not contain an economic analysis of its costs, Government members did not propose a single amendment before the deadline for the submission of amendments agreed to by all committee members. This was all the more surprising given that the government had had ample time to prepare amendments as the Bill had been submitted in the Committee six months previously, and was first presented in the House of Commons on 31 October 2006.

On 4 March 2008, Government members began filibustering in an attempt to block the passage of the Bill. Examples of filibustering techniques included repeating arguments that the Bill would have serious economic impacts; and reading for hours, word for word, from the Government's Turning the Corner Plan. Ironically, this plan was presented without any economic analysis despite the numerous requests by opposition members for a presentation of such an analysis. Concerned that the Bill might be filibustered until its deadline, a thirty day extension was sought by the opposition members of the Committee from the House of Commons on 5 March 2008. In a spirit of collaboration, after opposition members graciously invited the Parliamentary Secretary to Minister of the Environment to sit on the Steering Committee, the Parliamentary Secretary agreed to a work plan on 12 March 2008 whereby this Bill would be treated expeditiously with only one further day, 13 March 2008, devoted to clause by clause. However, on the 31 March 2008, members of parliament representing the Government blocked progress yet again by filibustering, acting apparently on new instructions from the Minister of the Environment's Office, thereby placing the Parliamentary Secretary in the embarrassing position of renegeing on his promise to conclude discussion of the Bill within the agreed work plan. The continued and systematic filibustering by the Government on 7, 9 and 14 April 2008 for a total of over twenty hours eventually led the Committee to an impasse.

Accordingly, the Committee adopted a motion at its meeting of 17 April 2008 to report the Bill back to the House of Commons in the hope that the remaining amendments which were blocked from being introduced at Committee stage could be introduced at Report stage. This would allow the agreed-upon amendments to go on to the House of Commons for a vote while the outstanding ones could be debated in the House of Commons if Speaker Peter Milliken allows it.

BLOC QUÉBÉCOIS DISSENTING REPORT

Canada and fighting climate change

With every passing day, the effects of global warming become more evident, including melting polar ice caps, rising ocean levels and the acceleration of erosion, to name a few.

The Bloc Québécois strongly believes that inaction can no longer be justified: immediate measures must be taken to reduce greenhouse gas emissions to a minimum and credible plans must be developed to ensure that we do not reach the point of no return when climate change will have serious effects on ecosystems and human life.

International discussions regarding the follow-up on the Kyoto Protocol are crucial. Instead of contenting itself with a weak greenhouse gas reduction plan based on emissions intensity, Canada must act responsibly and heed the European Union's call for absolute targets.

The Intergovernmental Panel on Climate Change (IPCC) has indicated that an increase in global temperatures of more than two degrees Celsius over the pre-industrial era levels would engender "irreversible" risks.

To ensure that we do not surpass that point, the IPCC has recommended that industrialized countries reduce their greenhouse gas emissions by 25% to 40% under 1990 levels by 2020. This objective is included in Bill C-377.

This objective and the government's commitment to develop a credible and responsible plan are among the reasons why the Bloc Québécois supported Bill C-377 and sought to improve it throughout the Committee's work.

In the opinion of the Bloc Québécois, the report is chronologically accurate but the Block does not share its interpretation of events whatsoever.

The Bloc Québécois can therefore only endorse the part of the report that states that the Committee was unable to make further progress because section 10 provoked a debate of over twenty hours, causing an impasse.

This debate did not of course prevent the Committee from concluding its section-by-section consideration of the bill. It was a delaying tactic the Conservative MPs used to sabotage the bill.

Despite all the talk of Conservative MPs, they clearly still reject the evidence of global warming and will pursue economic growth steadfastly regardless of the cost to the environment.

Instead of ambitious but necessary targets, they have opted for their “green” plan which will not block the growth of greenhouse gas emissions in Canada and was specifically designed to spare the big polluters, the oil companies.

The Bloc Québécois can only conclude that the paralysis that afflicted the Committee’s consideration of Bill C-377 was the result of a debate. It was the result of a purely ideological choice on the part of the Conservatives who once again disregarded Quebeckers’ wishes to see the federal government do more to fight global warming.

Supplementary Opinion to the Sixth Report of the Standing Committee on
Environment and Sustainable Development

By Nathan Cullen, NDP

The NDP concurs with the facts set out in the report and wishes to offer the following supplemental information for the record.

After being referred to the committee, the study of Bill C-377 proceeded, for the most part, as per usual. The committee heard evidence from a wide variety of witnesses with varying points of view and suggestions for ways that the bill as presented could be improved. Considering the length of time between the bill being initially introduced in the House on October 31, 2006 and the time when the Committee's study began, on December 11, 2007, more than a year had elapsed. In that year, further information became available to parliamentarians in the science surrounding climate change internationally. That, together with evidence given by witnesses to the committee, precipitated a number of proposed amendments by the three opposition parties that were intended to improve the bill.

The committee moved rather quickly through the majority of the proposed amendments at the clause-by-clause stage of the consideration of Bill C-307 as noted in the report. A review of the minutes of those meetings shows that the government systematically voted against the amendments and clauses, but was out-voted by the opposition members. Perhaps it was for this reason that the government members began their filibuster, which lasted over twenty hours, as noted in the report.

The NDP took special note of the Speaker's ruling of March 14, 2008, in which he stated, ". . . committees have found themselves in situations that verge on anarchy." He went on to say, "Frankly speaking, I do not think it is overly dramatic to say that many of our committees are suffering from a dysfunctional virus that, if allowed to propagate unchecked, risks preventing members from fulfilling the mandate given to them by their constituents." This member acknowledges that on several occasions he challenged procedurally sound rulings of the Chair, not because of any lack of confidence in the Chair, but rather in an attempt to break the impasse that had been created by the government's filibuster.

Ultimately, the NDP proposed a solution wherein the bill would be reported back to the House as amended without considering the remaining amendments, clauses and preamble. It is our intention to raise our outstanding amendments at report stage and appeal to the Speaker to allow their consideration at that time.

The amendments that remain would achieve the following: 1) Address the concerns of the Auditor General, who felt that the task of giving opinion on a minister's statement fell outside of the role of the Commissioner of the Environment and would substitute the National Roundtable on the Environment and the Economy as the body to undertake this task; 2) Give the Commissioner of the Environment the more appropriate role of auditing the progress of the government's commitments under this bill; and 3) Would provide for a definition of "greenhouse gases" for the purposes of this bill. These amendments are based upon the evidence given by several of the expert witnesses the committee heard from.

Many of the witnesses testified to the importance of enshrining the scientific targets found in this bill in law. Professor John Stone, one of Canada's pre-eminent climate change scientists and part of the Nobel Prize winning IPCC, said, "Very simply, in my view, time is running out. What we do in the next decade or so will be critical to tackling the long-term threat of climate change." (Committee Evidence, January 30, 2008). Furthermore, he said, "I believe that Bill C-377 is a useful contribution. The way I read it, it talks about having medium- and long-term goals. As I said in my introductory comments, I think it's absolutely essential in order that industry and we all have a long-term picture, and it challenges us and gives a level of emission."

The NDP supports the committee's decision to support the proposal that would end the impasse. We feel that Bill C-377 is one of the most important pieces of legislation that this Parliament will consider and are happy to see it progress through the democratic process and be returned to the House for consideration. It is our hope that the Speaker will rule in favour of considering the remaining amendments at Report Stage and we look forward to the ensuing debate and eventual vote at third reading.

Respectfully submitted,

Nathan Cullen, MP (Skeena-Bulkley Valley)
NDP Environment Critic