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Chair

Mr. Joe Preston

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•(1105)

[English]

The Chair (Mr. Joe Preston (Elgin—Middlesex—London, CPC)): Good morning. I'd like to go ahead and get started. Our meeting today is in public. Although the agenda said it was to be in camera, it is public. It is pursuant to Standing Order 108(3)(a)(v), and we're discussing matters relating to webcasting in the House and its committees.

With the committee's permission, our fantastic researcher has put together a package for all of you. I thought maybe he could go first and talk a bit about what's there, and then we'll take questions. With the will of the committee, we'll proceed that way.

Mr. Lukiwski.

Mr. Tom Lukiwski (Regina—Lumsden—Lake Centre, CPC): No, I was just putting my hand up.

The Chair: You're agreeing. It seldom happens, so I can't recognize when you're doing it.

Mr. Bédard, please go ahead and explain the briefing document.

Mr. Michel Bédard (Committee Researcher): I prepared a briefing note on webcasting. I am going to go through the briefing note and outline the most important aspects of this issue.

In 2007, this committee was made aware of two instances of unauthorized webcasting of committee proceedings. The committee had received letters from the chairs of the finance and heritage committees, and in one instance there was apparently a witness who had recorded the proceedings of the committee without authorization.

Prior to these letters to the committee, a letter was sent by the Office of the Law Clerk to the organization, the Friends of Canadian Broadcasting, which had put this webcast on their website and on YouTube. Basically, the letter said it was against parliamentary privilege, because the House of Commons and committee had the right to control the use, publication, or broadcast of its proceedings. Their response was that they would not remove the material from their website or from YouTube, but that they would be happy to follow any guidelines suggested to them.

The proceedings of the House of Commons and the proceedings of committees are made available on ParlVU. However, if someone wants to use these proceedings and put them on a website, there are currently no guidelines. So the Office of the Law Clerk will deny any requests in this regard. There are guidelines that will apply for

audio broadcasts or video broadcasts, but apparently those guidelines are not enforced for webcasting of proceedings.

This committee has within its mandate the issue and report of broadcasting of House of Commons and committee proceedings. It is within the purview of the committee. But this matter also raises copyright issues. For instance, the Speaker of the House of Commons, as the head of the House, also has jurisdiction over copyright material, and at the beginning of House of Commons proceedings, notice of this jurisdiction appears on TV and on ParlVU. There's a speaker's licence, a note to the effect that this material may be used in schools or for purposes of private study, research, criticism, or review. But as I said, no authorization to webcast materials from the House of Commons or its committee will be granted by the Law Clerk, given that there are no guidelines in this respect.

The Chair: Are there questions, comments, ways to proceed?

Mr. Lukiwski.

Mr. Tom Lukiwski: In respect of ways to proceed, going to the calendar we've established for this committee, it would probably be wise to bring a few witnesses in to assist us with this. I'm not sure if we could make all the decisions about proprietary rights and copyrights without the assistance of a few witnesses. If that's the case, I'm wondering how and when we could schedule a meeting to deal with this. I understand that the next few meetings are already booked with the Chief Electoral Officer and a few other things. At any rate, I think we're going to need to talk to a few copyright experts, perhaps the Law Clerk. When can we pursue this?

•(1110)

The Chair: Assuming the Chief Electoral Officer is only a one-day visit, the first open meeting we have available to discuss this item further is on Thursday the 26th, after we return from the February break week.

Mr. Tom Lukiwski: That's fine with me. If we're going to do this we should probably get something scheduled. Then all parties can submit witness lists and all that—the usual procedure—so we can go forward with this.

That's my only comment at this time.

The Chair: Okay.

Are there any other comments about how to proceed?

Monsieur Guimond.

[*Translation*]

Mr. Michel Guimond (Montmorency—Charlevoix—Haute-Côte-Nord, BQ): I've looked at the four questions suggested by our researcher on page 4 of his briefing notes. I'll try to answer them to the best of my ability and give you my opinion.

The first question reads as follows:

While it can be argued that the Committee's mandate also includes "webcasting" of proceedings of the House and its committees, should the Standing Orders nonetheless be amended to make this explicit?

«i would like to preface my answer with a comment of general nature. Committee are viewed as an extension of the House of Commons and the Standing Orders of the House of Commons are worded in such a way as to reflect this fact. The best evidence of this is that all of the rules of procedure and decorum that apply to the House are also applicable to committees. Therefore, theoretically, the same arrangements should apply to both, unless we want to provide for exclusions or restrictions, or in other words, provide for a mitigating measures, and expressly forbid this practice. If we decide to authorize the webcasting of committee proceedings, I think the Standing Orders would have to be amended to take into account the realities of the 21st century. Perhaps we've neglected to revise these provisions of the Standing Orders. Therefore, in my opinion, we need to amend the Standing Orders to provide explicitly for the practice of webcasting.

The second question raised by the researcher is as follows:

What can the Committee do with respect to the specific case of unauthorized recording and broadcasting of House of Commons committees' proceedings from the Friends of Canadian Broadcasting [...]

I would have expected our researcher to suggest to us how we might broach this subject. I agree with Mr. Lukiwski's comment, namely that we should call in some experts to explain to us what is going on exactly. What is the penalty for unauthorized broadcasting? A question of privilege has not been raised in the House. In theory, sanctions can be imposed. We've seen the letter that Mr. Goodyear, our Chair at the time, sent in 2007. However, just because a question of privilege has not been raised does not mean that this practice is legal, or acceptable.

As for the third question, in my opinion, guidelines should be established and these should be the same for members of the public and members of the House of Commons. Just because we are MPs doesn't mean that we should be able to abuse this practice.

The final question reads as follows:

Does the Committee have jurisdiction over broadcasting of House of Commons and its committees' proceedings when questions of copyright are involved?

I touched on this matter earlier, as did Mr. Lukiwski. We need to hear from some experts. Who has jurisdiction over broadcasting, the Speaker of the House or the Board of Internal Economy? I'm stumped too. I really don't know.

• (1115)

[*English*]

The Chair: Thank you, Monsieur Guimond.

Are there any other comments, guidance, or questions?

Seeing none, I would suggest what Monsieur Guimond has mentioned and Mr. Lukiwski had started off with. We have a road before us where I think perhaps Mr. Walsh should be called, since he really would be part of making this more legal.

Regarding the Standing Orders piece, we already have the Standing Orders against radio and television broadcasting. I think, Monsieur Guimond, you mentioned that if we simply bring in webcasting or any other electronic medium with it, we would probably cover ourselves if that were the case. But let's get that advice from Mr. Walsh also. If you see the letter, the Friends of Canadian Broadcasting simply thumbed their nose at us and said, show us your rules that say we can't do this. Well, we can't show them the rules, because it doesn't cover webcasting. So I think you've said that right.

I believe the clerk should probably also attend with Mr. Walsh from a procedural point of view as to how the House works on that point of view. It's up to the committee to decide whether that would be the case.

There is the one sentence at the bottom there. Where does this fall? Does it fall under the Board of Internal Economy or under Procedure and House Affairs? I think we'll proceed as if it falls under us, unless Mr. Walsh or the Speaker says it doesn't. But I think in this case we're talking more about perhaps the copyright piece falling under the Board of Internal Economy, but the rules of broadcasting in the House, we know, do fall under this committee.

So I've suggested Mr. Walsh and the clerk. Does anyone have any other proposed witnesses, or would you like some time with which to get those back to us? It looks as though this meeting wouldn't take place until February 26.

Monsieur Godin.

[*Translation*]

Mr. Yvon Godin (Acadie—Bathurst, NDP): We should start with this item, then we'll see after that. Let's start by hearing from Mr. Walsh and the other witnesses that have already been invited. We can always add more witnesses later to the list.

[*English*]

The Chair: Okay, so we're suggesting that we would have....

Monsieur Proulx.

Mr. Marcel Proulx (Hull—Aylmer, Lib.): Thank you, Mr. Chair.

I think we should ask Mr. Walsh. I'm not sure who could do this for us, but I would appreciate having a list of advantages and disadvantages for establishing rules and regulations for the webcasting. If we want to bring in new rules, it would most probably be to limit the use of these recordings or the use of these feeds.

It would be interesting for us to be abreast of the advantages and the disadvantages.

The Chair: Should we ask Mr. Walsh that before he comes, so that he can be prepared to answer that?

Mr. Marcel Proulx: Well, if he's the one who could—

The Chair: At your direction we'll do that.

Mr. Marcel Proulx: Yes, I think we should, at least him. He's going to tell us the pros and cons in his legal eye, at least, so we can decide if it's worth it or not.

The Chair: All right.

Are there any further suggestions as to questions ahead of time? I know we'll speed it up if he comes here more prepared.

Monsieur Guimond.

[*Translation*]

Mr. Michel Guimond: I forgot to say something. My colleague Ms. DeBellefeuille spoke to me about Question Period and speeches in the House, about the fact that we use political parties for our own personal benefit and the fact that the media do likewise. There is one specific provision that makes this all possible. Someone working for the House broadcasting service explained to me that the networks tap in to a specific feed. We're aware of the situation. Regardless, the purpose of the study is to determine if this authority can be extended to committees.

[*English*]

The Chair: You're right, and as Monsieur Proulx has requested, maybe we should pre-ask Mr. Walsh that question too: Under what permission do people get to use the electronic broadcasting from the House, whether it's part of CPAC or it's a webcast? I think that's a good question to have him come prepared to answer so that we can answer that.

The copyright obviously lives with whoever owns the service in the first place, but permission must be granted.

Mr. Lukiwski.

• (1120)

Mr. Tom Lukiwski: Thanks, Chair.

I'm not sure if Mr. Walsh would be the correct person to answer this or if this would be a decision made by this committee, but it seems to me that another question we need to ask, or an answer we need to a question, is for exactly what purpose individuals would be allowed to use reproductions of committee business or House of Commons business. For example, if you're going into an election campaign and you want to develop a 30-second television ad to promote your candidacy, would you be allowed to take the proceedings from a committee in which you are featured or a question in the House of Commons or that type of thing? Normally that's not allowed, because usually people would have to get the feed from a news broadcast or something, and news outlets normally don't allow that to happen. If we're going down this road, could someone—a candidate—potentially take something from the House of Commons proceedings or committee proceedings and build that into an ad? Is that something we want to allow to happen, or do we want to put restrictions on that?

I guess what I'm saying is that this could lead to a far larger area of discussion once you start opening up permission and authorities to allow people to rebroadcast what's happening in this place.

The Chair: Yes, I agree, Mr. Lukiwski, but we must already have those provisions in place for television broadcast and sound broadcast situations. I would suggest that we would simply include webcasting in that group, and it would be covered. I know there must be a procedure now, because in some cases it does happen. Permission is granted through someone. I'm guessing that it's through the House, and the Speaker may have to grant it. I'm not certain about how it works, but I'm sure the Standing Orders cover that.

Are there further suggestions? Should we move further, or should we schedule the meeting with Mr. Walsh and the clerk for the meeting after we've had the Chief Electoral Officer? That would give us a better package to move forward. At this moment we've developed questions; we haven't developed any answers.

We'll go to Monsieur Proulx.

Mr. Marcel Proulx: Let's make sure we tell the clerk that we want to know all the ins and outs so that if they need additional experts from the House, employees or whatever...

The Chair: Then they could suggest, demand, or bring them?

Mr. Marcel Proulx: Yes, we'll have a two-hour meeting at the end of which we'll know exactly where we stand, and we can start having witnesses, or maybe we'll want to make a decision at the end of the two hours.

The Chair: With your permission we will write to both Mr. Walsh and the clerk and say that this is the end game we're trying to get to and ask if they can help us get there. They will hopefully try to answer some of the questions ahead of time.

Mr. Marcel Proulx: They can include the pros and cons.

The Chair: Is there further discussion on this topic?

Is there anything else for the good of the committee today?

Yes.

[*Translation*]

Mr. Yvon Godin: Are the results of the voting in the House of Commons posted on the Internet?

[*English*]

The Chair: No. If I can answer from personal experience, there used to be a "How'd They Vote" website—it was called "How'd They Vote"—and you could always look it up. I know that we've asked at the Board of Internal Economy for the House itself to develop a website on how people have voted so that it would be far easier for us and others to look up.

Mr. Yvon Godin: What happens then? Can we do something here with this? I mean, if the board is not doing it and is staying silent.... I don't know what happens there and I want to know. We just get the results.

The Chair: As I said, I know that we have asked the House to start to do that. I just don't know where it is. We could do that too.

Go ahead, Mr. Lukiwski.

• (1125)

Mr. Tom Lukiwski: After each vote it's on Journals online, but I don't think they have a website showing a compendium of all the votes going back a year or two years or something.

The Chair: "How'd They Vote" used to do that, and it was great.

[*Translation*]

Mr. Yvon Godin: I think one can always go on-line and obtain the results of the voting. It's not something that is "user friendly". You're talking about something that would be easier to access, for example, a website called "How'd They Vote", where you could obtain results immediately. Right now, you have to find the results yourself, and if you're not good at searching on-line...

[*English*]

The Chair: I'm not certain about what I can share with you from the Board of Internal Economy.

Mr. Yvon Godin: That's why I said I don't want to hear it. I know you're

[*Translation*]

privity to some secrets. That's why I'm saying that our committee could perhaps look into this matter.

[*English*]

The Chair: Perhaps when the clerk is here that day we can also ask her that question.

Mr. Yvon Godin: Sure.

Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.): Perhaps it would be interesting as well to see if there are any foreign jurisdictions or provincial ones here in Canada that allow webcasting. We can see what their rules and procedures are and actually do an evaluative comparative study. That might help guide us as well. If there are, we might want to look a little further into what issues they've had. Has it caused any problems and so on?

The Chair: That is a fantastic point and it is a great piece for our researchers to look at: what is the provincial piece?

Hon. Marlene Jennings: And what is done in other jurisdictions?

The Chair: And look at other jurisdictions, as there are many jurisdictions around the world that are faced with this.

Great. Let's not break new ground if it's already been broken.

Are there further questions? Seeing none, we are adjourned.

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