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# **Standing Committee on Access to Information, Privacy and Ethics**

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**EVIDENCE**

**Tuesday, September 20, 2011**

—  
**Chair**

**Mr. Nathan Cullen**



## Standing Committee on Access to Information, Privacy and Ethics

Tuesday, September 20, 2011

• (0920)

[English]

**The Chair (Mr. Nathan Cullen (Skeena—Bulkley Valley, NDP)):** We're now in public.

We have a motion in front of us.

Dean, if you have it in front of you, would you mind reading it as it was presented?

**Mr. Dean Del Mastro (Peterborough, CPC):** The motion I'm presenting says that the Standing Committee on Access to Information, Privacy and Ethics call witnesses to hear testimony regarding the access to information dispute and the resulting court actions concerning CBC.

**The Chair:** Is there debate on this motion?

Mr. Angus.

**Mr. Charlie Angus (Timmins—James Bay, NDP):** I'm rather disturbed that the first meeting of our committee is focused on an obvious attack on CBC. I would encourage the Conservatives, if they have issues regarding CBC, if they want to take the side of Brian Lilley and the Sun machine in their continual attempt to get information from their number one competitor through access to information, to do so in a general review of access to information.

We have a number of issues with regard to access to information. For example, in the Togneri case, the access to information commissioner clearly found problems, yet the RCMP did not follow up. I don't know whether or not we need to examine the legislation in place to see if it provides the RCMP with the tools to follow through when people are breaking access to information obligations. There are problems for many people who are trying to get access from this government.

I think if we want to get into access to information it's an excellent issue, but it would look fairly partisan right now for the Conservatives to ignore all that and simply go after CBC. I think it sends the wrong message on day one.

**The Chair:** Ms. Davidson.

**Mrs. Patricia Davidson (Sarnia—Lambton, CPC):** Thank you.

I would just like to caution or to suggest to my colleague opposite that it would be nice if we could all keep an open mind until we have heard from the witnesses.

The motion I've heard presented here this morning is not in any way taking sides. The motion is asking for information from both sides on an issue that I have in particular been receiving questions

on, as have, I expect, most of the others around this table. It's something that I need to know the answers to. I need to know so I can answer my constituents. They are interested in what's happening. The access to information should apply to us all, to everyone, as it applies to crown corporations. We need to see what the answers are to that. We need to know why this has become such an issue. It may be, once we've looked into the matter, that there is no issue, but I think it behooves us, as the committee responsible for access to information, to keep an open mind, and not try to determine what one party is trying to do. The motion in no way suggests that.

I'm in favour of the motion. I'm entering into it, and I'm going to support it because I'm going in with an open mind and I want to know the truth of the matter.

**The Chair:** Thank you.

Mr. Del Mastro, and then Mr. Angus.

**Mr. Dean Del Mastro:** Thank you, Mr. Chairman.

I agree. Frankly, my colleague has made most of my points. The motion does not take sides. I would simply say that last year there were two crown corporations red-flagged for their performance with respect to access to information, and one of those is currently undertaking a court action. I would simply like to get all the sides before us and find out why this is happening.

I think the backdrop of it is not good, and I do have Canadians asking me questions about it, about what's going on. This is the access to information, privacy and ethics committee. Access to information is obviously something we are concerned with here. We have a case right now that at least appears to be going against the spirit of the Accountability Act, and I'd like to hear about it.

• (0925)

**The Chair:** Thank you.

Mr. Angus, and then Mr. Andrews.

**Mr. Charlie Angus:** Thank you.

I certainly don't want to impugn the motives of my esteemed colleagues across the floor. Perhaps I was just being sensitive, having sat on the heritage committee and never ever once having heard any of the Conservatives ask a positive question of CBC. There seemed to be a continual attack against our public broadcaster. Despite some extraordinary reviews and the updates on CBC planning that we heard, there always seemed to be an underlying sense of suspicion. Perhaps I'm just being overly sensitive to the Conservative government having an agenda to continually attack our public broadcaster and to undermine it.

That being said, I would like to take my colleagues at their word. Their desire for openness is certainly important. Access to information is about openness, so I'd like to just amend it. We have political staffers interfering time and time again with access to information requests. We have the access to information commissioner raising serious red flags about people's ability to get information. Perhaps to defuse this we could simply say that we will look at the issue of access to information as our first study, and Mr. Del Mastro can bring all the witnesses he wants against CBC, but we can get into a much broader general discussion without this being seen as just a pulpit from which to bash the public broadcaster.

**The Chair:** Before I get to Mr. Andrews, the way you've done this—

**Mr. Dean Del Mastro:** It's not an amendment.

**The Chair:** Yes, I'm not sure it's an amendment. It feels like a distinct motion.

Mr. Angus.

**Mr. Charlie Angus:** I'm attempting to find common ground—

**The Chair:** I understand.

**Mr. Charlie Angus:** —whether common ground exists or whether this is going to be a committee that is used, when you're the Conservative Party, by the attack to push a particular agenda.

This is our first day together, so I'm reaching out in the spirit of openness, but if they're going to blow us off and say “our way or the highway”, then they'll send their message on day one.

**The Chair:** Just to be clear with our process, this isn't an amendment. It's a distinct motion, so in order to hear it and debate it, we have to remove the one we're discussing right now to get to this broader topic you're talking about. The committee has to essentially remove Mr. Del Mastro's motion to get to this larger question in order to hear it.

We're going to go to specific debate on that question.

**A voice:** No.

**The Chair:** Okay. So here's just a clarification on the rules. The only way to withdraw the motion presently in front of us is by unanimous consent. I can see from Mr. Del Mastro that there's no unanimous consent to do that, so we're back to the original motion.

Mr. Andrews.

**Mr. Scott Andrews (Avalon, Lib.):** I just have a question for Dean. Would there be an openness to have a friendly amendment to expand it to review how the freedom of information laws apply to all government departments? I think the CBC is a specific one, but it's

just underlying the surface that they are not consistent across all government departments. Would you be willing to amend it with a friendly amendment to include a review of how our freedom of information is released across all government departments?

**Mr. Dean Del Mastro:** I think you're making a valid point. I think it's a valid concern, Scott, but this specific motion deals with a specific incident that is occurring right now, an issue that is occurring right now that involves a crown corporation and private individuals seeking access to information.

**Mr. Scott Andrews:** I would argue that it's happening across all departments. It just happens that this is a court case.

**Mr. Dean Del Mastro:** Right, but this is specific to an incident that is occurring. We'd like to get some answers on that.

We can certainly, in future studies in access to information, take a look at the broader issue and issues impacting others, but this is a crown corp that was red-flagged and is currently in court. I think we need to find out, one, why they were red-flagged, two, why they are in court, and three, what it is that these people are seeking that they're not getting answers to and whether it is an issue of public concern. If it's not, then I think the committee can say that we have done our work here, so let's move on.

But I do think that this question right now is currently a significant one. I am hearing about it from people in my riding, and I think it behooves this committee, as a committee that has as the first part of its mandate access to information.... Here we have a court case involving a crown corp on an access to information request, and what I'm hearing from the opposition is “let's dumb it down, let's water it down, and let's not get any answers”. But I—

• (0930)

**Mr. Scott Andrews:** That's not what I said, Dean.

**The Chair:** Let's—

**Mr. Dean Del Mastro:** No, I know that. I never suggested you.... But what I am suggesting is that this is a specific incident that's going on right now. I think this committee should want to get some answers on it. Without taking sides, it's about getting answers.

**The Chair:** Thank you, Mr. Del Mastro.

Just to be clear, I think what Mr. Andrews is trying to do is move a friendly amendment to this motion to broaden it.

I'm getting a sense again from you, Mr. Del Mastro, that this is not a favourable thing—

**Mr. Dean Del Mastro:** [*Inaudible—Editor*]

**The Chair:** —so we're back to the main motion.

Are you done, Mr. Andrews?

**Mr. Scott Andrews:** Yes.

**The Chair:** Are there other comments on this main motion?

Mr. Angus.

**Mr. Charlie Angus:** Yes. I'd like to ask my honourable colleague to retract "dumb down". I think it's disrespectful of the issues that we're bringing forward in good faith. We are very concerned, as the government should be, about the fact that access to information is being denied continually and it's being denied in numerous government departments.

So when my colleague from the Liberal Party offers a friendly amendment, he's certainly doing that because he's serious about his work. I just think that in terms of decorum I'd ask my colleague to retract "dumb down".

**The Chair:** The decision for Mr. Del Mastro to retract or not to retract is his own, but we're going to finish this conversation around this specific motion.

Mr. Del Mastro.

**Mr. Dean Del Mastro:** I'll retract the term "dumb down", which I meant nothing personal on, but I do think the opposition is seeking to water down the issue and confuse the issue.

I would also suggest, Charlie, that you made a comment a few minutes ago suggesting that you've never heard a Conservative ever say anything positive about the CBC at the heritage committee, which is absolutely false, because I specifically remember things like the CBC coming forward with their new technology platforms and me telling them that they were leading the way on these things. I thought that was kind of positive.

**The Chair:** Thankfully we're not at the heritage—

**Mr. Dean Del Mastro:** I would simply suggest that if we're going to be so sensitive, and everybody's feelings are going to be so easily hurt, then, you know...this is the big leagues.

**The Chair:** To all committee members, just for the sake of the productivity of our conversation, please remember to direct your comments through the chair. That will cut down on anybody feeling impugned or slighted. That's why we have the kooky rules that we do.

Mr. Calkins, did I see your hand? No.

Are there any other comments on this motion before we come to a decision and vote? Everybody is good?

So we've all heard the motion. Do we need to hear it again? We understand what's being suggested and we're okay? All right.

All those in favour of the motion?

(Motion agreed to)

**The Chair:** So that was a specific motion. We....

Mr. Angus.

**Mr. Charlie Angus:** Is it possible to move a second motion?

**The Chair:** We are open and we're discussing the committee's agenda. You can move a motion.

**Mr. Charlie Angus:** Certainly.

I would like to move a motion that we hear from the four commissioners for a period of two hours each so that we can be fully briefed on their portfolios, so that all the members of this committee can fully understand the implications of the dossiers they are in

charge of and members can have an adequate period of time to ask the appropriate questions. At the beginning of a new session of Parliament and a new committee, a two-hour period with each of the commissioners will give us a good foundation so that we can move forward.

**The Chair:** Thank you, Mr. Angus.

Just as a point of clarification with regard to the invite we make to these commissioners, the motion that you just directed doesn't mention their annual reports. Would that be something you would imagine those commissioners delivering? The reason we need to be specific about it is that they would have to prepare that as part of their testimony for us, if we ask for it.

**Mr. Charlie Angus:** Well, I think we leave it to them. Some of them might want to give us their annual report and some of them might want to brief us on their files. They have a major responsibility in terms of ensuring the accountability of government, so we need to be fully brought up to speed.

I think we need to have a two-hour period with each of them. Given the number of members of the committee, anything less than two hours and many members of this committee would not be able to ask any questions.

**The Chair:** That's fine.

Just for members' awareness, the reports are all referred to us anyway, and that makes them a topic of conversation. So we don't actually have to be that specific.

Mr. Butt.

● (0935)

**Mr. Brad Butt (Mississauga—Streetsville, CPC):** Mr. Chairman, I'm much like my colleague Mr. Carmichael; I mean, I was a private citizen observer of the House of Commons prior to being elected on May 2, and I did spend a fair bit of time watching proceedings of committees and watching commissioners and other witnesses testify. I felt that an hour of listening in those cases was quite adequate.

I think one of the jobs we have as committee members is that we have to do our homework too. We're getting copies of these annual reports. I'm reading them, because I take my job on this committee very seriously, and I'm doing my homework. I'm writing my questions down. I am being prepared for the committee meetings.

So I think an hour for each of the four commissioners who report through this committee is quite adequate. I would expect members of the committee to come forward at that meeting and be prepared to maximize the input during that one-hour time. I think an hour is quite adequate.

**The Chair:** Thank you.

Mr. Mayes.

**Mr. Colin Mayes (Okanagan—Shuswap, CPC):** I am going to echo that. It's incumbent on us to do homework. I have the reports. I've been reading them. I think we should be doing some of the work here. An hour is plenty. I don't think we need to have the full report and go over it as a committee. I totally agree with what Mr. Butt has said.

**The Chair:** Great. Thank you, Mr. Mayes.

Mr. Del Mastro, and then Mr. Anders.

**Mr. Dean Del Mastro:** Thank you, Mr. Chairman.

I see these as kind of introductory meetings for the committee, where the commissioner could come in and discuss a little bit not just what they do; frankly, it's also for us to get to know them a little bit. I think we can have quite a decent interaction with them in one-hour sessions. We have done this at other committees in the past, obviously, bringing in ministers for an hour and then departments for an hour. I think that works. I think there's a good exchange of information. I think an hour is plenty and sufficient.

So we would move a friendly amendment to my colleague's motion that we do call the four commissioners who report directly to this committee but that we hear from them for one hour each as opposed to two.

**The Chair:** I suppose we are now into the process of moving an amendment to the motion?

**Mr. Dean Del Mastro:** Yes.

**The Chair:** The original motion talked about two hours per commissioner.

We are going to see if that's a friendly amendment or not before we go to Mr. Anders.

Mr. Angus.

**Mr. Charlie Angus:** Thank you for that friendly amendment.

I'm certainly glad my colleagues do their homework. That's good to hear. When I do my homework, I have lots of questions, because I'm not just speaking on behalf of myself; I'm also speaking on behalf of the New Democratic Party and the Canadians who sent us here.

These are complex files. These are serious issues. I think we could probably all benefit from giving the time to work and to meet these commissioners and to press them on the outstanding issues. It might save us work down the road. When I do my homework, I want to be able to follow up and make sure that we can get the full amount of questions in.

So it's a friendly amendment, but I reject it.

**The Chair:** We'll have to vote on it. So we're back to the original amendment.

**Mr. Dean Del Mastro:** We're debating the amendment now, I would assume. I moved an amendment, so we're now debating the amendment. Of course, at some point you'll have to call the question.

**The Chair:** I'll have to call the question.

Let's get some comments on this time allocation thing, and let's not spend too much more time.

I have Mr. Andrews next.

**Mr. Scott Andrews:** Somewhat unfriendly.

As much as I agree with trying to move along with committee time, and how we do waste a lot of time in committees, I think that this being our first committee...a lot of us are new to this committee.

I've met with two of the commissioners already myself, and those meetings were longer than an hour. I think two hours is not much to ask. It's going to be a long four years, guys and ladies, so I think we should look at using two hours. One hour will just deal with their reports in themselves, let alone trying to inquire into some new business and some new items that may have come up since the reports.

I'll back down in a minute here and let's move forward. It's only two meetings.

**The Chair:** Thank you, Mr. Andrews.

Ms. Brosseau.

**Ms. Ruth Ellen Brosseau (Berthier—Maskinongé, NDP):** Just to reiterate what my colleagues on this side have said, one hour is not enough. Doing homework I come up with more questions. As a new MP, new to a committee—this is all new to me—one hour is not enough, so I'm really pushing for two hours.

**The Chair:** Mr. Carmichael.

**Mr. John Carmichael (Don Valley West, CPC):** Mr. Chair, maybe just one last comment. Again, being new to it, my thought is that if we do our homework and find our way through the reports and through the preparation for the meetings...I'm of a mind that probably one hour, frankly, should be enough. Then if we do need more, I would think at the discretion of the chair, or at this committee's discretion, with one particular commissioner or another, we would have the opportunity to extend if we felt there was a particular need. But I think if you start with one hour...let's find out where we go. At least that gets us a footing and a foundation to learn what we're here to learn.

● (0940)

**The Chair:** We have this amendment. We're going to vote on it. I'm just going to throw a suggestion out to test the floor, and if it's rejected, just nod your heads no.

We had a substantial conversation about one of these commissioners in particular in terms of access to information. Would it be of interest to the committee to have two hours with that commissioner and slot one hour for the others, to proceed that way, or should we just take the motion as it is?

Take the motion as it is. Okay.

So the amendment to the motion as it is right now is to have each of the commissioners appear before the committee for one hour each.

(Amendment agreed to)

**The Chair:** Now to the main motion, which is to see each of these commissioners report to the committee for one hour each. We'll line them up as quickly as we can in the order we can get them. Can I just seek a vote on this motion? Do we need to have more discussion?

(Motion as amended agreed to)

**The Chair:** I'm not sure if we have any other committee business that we need to conduct.

Just on the motion prior to this one, on the CBC and specific to access to information, we're going to need some witness suggestions from the members. Just so people have an understanding, it might not be as...we're going to get it as quickly as possible, but some of these folks are extraordinarily busy; some of them are in court. We'll get who we can, but we're going to need, as soon as possible, suggestions for witnesses from the members of the committee. That's fine; everybody understands.

I don't want to drag this out. Is tomorrow at four o'clock okay for people, or do you need more time than that? This is just for lists of witnesses.

Mr. Angus.

**Mr. Charlie Angus:** That's not acceptable. Tomorrow at four o'clock? I mean, you guys can—

**Mr. Dean Del Mastro:** Why don't we say Friday at five?

**Mr. Charlie Angus:** You guys came in totally out of the blue and threw this at us, and then we're supposed to have witnesses?

**The Chair:** It's simply a suggestion.

**Mr. Charlie Angus:** We have four years, as my colleague says—a long four years. Either we're going to do this in some kind of quasi-collegial, professional manner, or you guys are just going to blow through—

**The Chair:** No, no.

**Mr. Charlie Angus:** To give us a day is not enough—

**The Chair:** No, the suggestion came from me.

**Mr. Dean Del Mastro:** My suggestion is for Friday at five o'clock, Charlie.

**The Chair:** It's Friday at five o'clock. I see I'm going to get pounded by my colleague after the committee. Is Friday at five o'clock okay for witnesses? Does that make sense? Does that give people enough time?

There is one small final piece. I seek this from the committee. The 7th International Conference of Information Commissioners is happening in Ottawa from October 3 to 5. Committee members should know that we have an invitation from the conference to attend for free, which is nice, because there's actually a substantial fee to get in. We'll make that information available to you.

Second, the analysts are seeking to go to this at a much discounted rate.

For those of us who are going to be too busy to attend this, my suggestion is that the committee allocate some funds to allow the analysts to go and then report back to the committee, not necessarily in a full standing effort. This is going to be a gathering of the best and the brightest of information commissioners from around the world. I think it would behoove us to have somebody there on our

behalf if we can't go, and I know our schedules don't necessarily allow for us to go.

Is everyone in agreement with that? Excellent.

Thank you, everybody.

Sorry, there is a question on the floor as to next business.

Chad, do you want to...?

**The Clerk of the Committee (Mr. Chad Mariage):** It's all going to depend on the availability of the commissioners at this point. With regard to the witnesses for the CBC study, obviously I'm pursuing the commissioners for as early as Thursday. I have a couple who are kind of on standby, and they'll be confirming with me within the next hour. If there's a meeting Thursday, a notice will go out today in order to conform with the 48 hours' notice rule. We'll have an answer today. The idea is to have at least one of the commissioners on Thursday.

● (0945)

**The Chair:** Mr. Butt, and then Ms. Davidson.

**Mr. Brad Butt:** I think there have been some changes to the parliamentary schedule for Thursday because the Prime Minister of the United Kingdom is coming in. I'm not sure if that affects the timing of this or, if we're getting commissioners in, how long they're going to be able to speak before we have to be in the House.

**The Chair:** It shouldn't.

**Mr. Brad Butt:** Question period is moved to the morning, right?

**The Chair:** Yes. It shouldn't affect it, but we'll check how that all works out.

**Mr. Brad Butt:** I don't remember exactly how it all worked out, but I know it has been changed for Thursday.

**The Chair:** Before people go, we have one more question on the floor from Ms. Davidson.

**Mrs. Patricia Davidson:** Did you need a motion for funds for the analysts or is it...?

**The Clerk:** It's implied. I got it.

**The Chair:** Thank you for that question.

**Mrs. Dara Lithwick (Committee Researcher):** We'll try to get a briefing out as soon as possible.

**The Chair:** Just in terms of the briefing note that committee members should expect from the analysts, we're moving as quickly as we can, folks. We'll have a briefing note to you for whatever commissioners we will have for Thursday as soon as possible. We don't know who it will be yet, so it's a bit tricky to prepare the notes.

Thank you, everybody. The meeting is adjourned.





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