



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Subcommittee on Private Members' Business of the Standing Committee on Procedure and House Affairs

SMEM • NUMBER 008 • 1st SESSION • 41st PARLIAMENT

EVIDENCE

Tuesday, April 23, 2013

—

Chair

Mr. Dave MacKenzie

Subcommittee on Private Members' Business of the Standing Committee on Procedure and House Affairs

Tuesday, April 23, 2013

• (1035)

[English]

The Chair (Mr. Dave MacKenzie (Oxford, CPC)): This is meeting number eight of the Subcommittee on Private Members' Business of the Standing Committee on Procedure and House Affairs. Today we're dealing with one issue, to determine the status of non-votable items pursuant to Standing Order 91.1(1). It's Bill C-489. It has been circulated.

I'll turn it over to the analyst.

Mr. Michel Bédard (Committee Researcher): Bill C-489 would amend the Criminal Code and the Corrections and Conditional Release Act respecting prohibition orders. It would prevent the offender from knowingly being within two kilometres of the residence of the victim. It would also make amendments to the provisions respecting probation orders, conditional sentencing, peace bonds, and parole provisions with respect to the offender communicating with the victim or being in a specified place.

The bill is clearly within federal jurisdiction. It does not appear to be clearly unconstitutional. There might be some amendments that could be made to the bill, but there is nothing that is clearly unconstitutional. There is no similar bill on the order paper, either a private member's bill or a government bill.

The Chair: Thank you.

Hon. Stéphane Dion (Saint-Laurent—Cartierville, Lib.): What do you mean by it may need some amendments, but it's not clearly unconstitutional? That means that you thought about it, and had some hesitation maybe, and then decided it was constitutional.

Mr. Michel Bédard: It's not necessarily a hesitation. As members know, the threshold is whether it's clearly unconstitutional. By looking at one provision, in particular clause 1, which would amend subsection 161(1) of the Criminal Code with respect to a prohibition order, it would prohibit the offender from "being within two kilometres of a dwelling house where the offender knows or ought to know that the victim is present or can reasonably be expected to be present".

Hon. Stéphane Dion: Is that the main purpose of the bill?

Mr. Michel Bédard: That's the proposal of the bill. This language is only to be found in this clause of the bill. The language in the

other provisions of the bill is different. The language that we find elsewhere in the bill merely reproduces language that is already used in the Criminal Code with respect to bail provision.

Going back to the language of clause 1, which would amend subsection 161(1) of the Criminal Code, there might be some discussion with respect to how to know that the victim is there. It seems to impose positive obligation on the offender to know where his past victim is. So there might be some amendment or discussion. I'm just saying that it's not.... I cannot say today without the benefit of all the evidence and the benefit of the case—

Hon. Stéphane Dion: The thing is it's the kind of issue the House will have to consider.

Mr. Michel Bédard: There are some issues, but as long as the threshold is whether it's clearly unconstitutional, I suggest that it meets the criteria.

Hon. Stéphane Dion: I agree with that.

The Chair: It's something that can be dealt with at committee—

Hon. Stéphane Dion: I agree that it's something that colleagues should look at.

The Chair: Is the committee in favour of the bill?

An hon. member: Agreed.

The Chair: Okay.

Should the subcommittee present a report listing the item which it has determined should not be designated non-votable, and recommend that it be considered by the House?

Hon. Stéphane Dion: It should not be non-votable. Yes.

The Chair: Agreed?

An hon. member: Agreed.

Hon. Stéphane Dion: It looks like a professional [*Inaudible—Editor*] by the Parti Québécois government.

The Chair: I'll report it to the procedure and House affairs committee probably today.

Thank you. The meeting is adjourned.

Published under the authority of the Speaker of
the House of Commons

SPEAKER'S PERMISSION

Reproduction of the proceedings of the House of Commons and its Committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the *Copyright Act*. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a Committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the *Copyright Act*.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its Committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

Also available on the Parliament of Canada Web Site at the following address: <http://www.parl.gc.ca>

Publié en conformité de l'autorité
du Président de la Chambre des communes

PERMISSION DU PRÉSIDENT

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la *Loi sur le droit d'auteur*. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la *Loi sur le droit d'auteur*.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

Aussi disponible sur le site Web du Parlement du Canada à l'adresse suivante : <http://www.parl.gc.ca>