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—
Chair

Mr. Gary Schellenberger

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• (1535)

[English]

The Chair (Mr. Gary Schellenberger (Perth—Wellington, CPC)): Seeing that the time is a little past 3:30 and that we do have quorum, I will welcome everyone to today's meeting of the Standing Committee on Canadian Heritage. This is meeting number 20.

Today, pursuant to Standing Order 108(2), this is a study on the Indian art acquisition program, and we welcome Ms. Gray, manager of the Indian and Inuit Art Centres, in the corporate services sector.

Our meeting today might be just a little different. I understand that it's primarily a slide presentation. As we go through that, what we will do is allow questions. We will try to keep our questions short and concise as we go through the presentation. When you come to particular things on which you have questions, Ms. Gray has said she can answer those questions as we go through.

The presentation should take anywhere between an hour and an hour and 15 minutes. Depending on how we get through the presentation, if we do have 15 minutes left, I will allow one round of questioning at the end.

I would like very much to get through the whole agenda that we have here today. Does this sound satisfactory?

Hon. Mauril Bélanger (Ottawa—Vanier, Lib.): No, Mr. Chairman, it doesn't. Depending on the presentation we receive, there may be some very substantive questions to be asked. If we're limited to five, six, or seven minutes and do not get a second round, I don't think we're doing justice to the issue.

The Chair: Then if we don't get through our agenda, because there are other things on the agenda—

Hon. Mauril Bélanger: Let's have a committee business meeting. We do that once in awhile.

The Chair: Yes, Mr. Angus.

Mr. Charlie Angus (Timmins—James Bay, NDP): I would suggest that we see how the presentation goes. We can do one round of questioning, and then we can decide, as a committee, if we've heard enough or if we need to follow up.

We do have some issues that have to be addressed in terms of business. In terms of whether or not we're going to do that today, at that moment we will make the decision.

The Chair: You've heard the decision.

Ms. Gray, you have the floor.

Ms. Viviane Gray (Manager, Indian and Inuit Art Centres, Corporate Services Sector, Department of Indian Affairs and Northern Development): Thank you.

If I might, Mr. Chairman, I could do the presentation straight through in less than an hour. That would give you more time for questions, if that's what you'd like.

Hon. Mauril Bélanger: I'm sorry, but I missed something, Mr. Chairman, so I need to get some clarification for myself. Because of my participation in other meetings at times, I'm under the impression that there's a set time our witnesses have to make a presentation. Am I mistaken in believing that?

The Chair: On the ten-minute presentation, yes, but apparently with this particular presentation it's not that way. It's a slide presentation.

Ms. Viviane Gray: I was told I would have two hours.

Hon. Mauril Bélanger: I believe the entire meeting is two hours, Mr. Chairman. When the minister came, she took 20 or 25 minutes and I was almost on the point of squawking. But if we're going to have a meeting here on a subject that most of us know very little about and then not have time to probe and ask questions because the presenter takes an hour or more, I think there's a problem. We need to straighten this out before we get going.

Ms. Viviane Gray: I can shorten it to the time you need. If it's ten minutes, I can do ten minutes.

The Chair: My thing is—

L'hon. Mauril Bélanger: I didn't say ten minutes, but an hour is in the other field.

The Chair: The way I took it from the beginning was that if we take an hour and 15 minutes or so going through the presentation, then as we're going through the presentation, questions can be asked. We can then have one round after the presentation, and if we need more than that, we can have that.

Mr. Angus.

Mr. Charlie Angus: I would suggest that we're in on an unusual presentation right now. For one, I don't know if anybody here knows much more about this art than I do, and I know next to nothing. I wouldn't mind actually just learning and hearing, and I would appreciate being able to stop and ask clarification points. We can see how it goes.

We don't do this as a general rule, because as a general rule, we have a very different kind of presentation. We have asked them to come here so that we can learn about it, and in ten minutes I might not know enough.

The Chair: That's how long a meeting usually lasts, two hours.

I would like to try something different in this meeting today, that we go through the presentation, ask questions as we go through, then we can ask more questions afterwards.

If we want to take the full meeting to ask two rounds of questions, I don't have a problem with that. It's been requested that we do this. We can do ten minutes and then hope we can remember the various things we want to ask questions on.

[*Translation*]

L'hon. Mauril Bélanger: I don't like having to go over this again. There are rules, and I wish they were adhered to. We adhere to them, and I wish everyone else would.

Carry on, Mr. Chairman.

[*English*]

The Chair: The microphone wasn't on, so I didn't hear you.

Could I get consensus, one way or the other? Do we want—

• (1540)

Hon. Mauril Bélanger: Out of respect to you, what I was saying is that we have set rules in this committee, and I think by and large we respect them on this side. I think it would be appropriate that we respect them throughout. That's all. If we want to change the format unilaterally, a little consultation might be required.

The Chair: My consultation happened as I got here to the meeting today, and that's the way it is. If there's been a misunderstanding on how the presentation is going to be made, we can have a 10-minute, 15-minute, or 20-minute presentation and ask questions. If that's what we want, and if we can't have consensus to go through the way I said the first time, we will have a 20-minute presentation and then do the rounds of questioning.

Do I have a consensus to do what I said the first time?

I don't have consensus.

You have a 20-minute presentation, and then we'll go to our rounds of questions.

Ms. Viviane Gray: Thank you.

Good afternoon, ladies and gentlemen. *Bonjour, mesdames et messieurs.*

My presentation will be in English, but if you have questions in French, I can address those as well. My name is Viviane Gray. I'm the manager of the Indian and Inuit art collection at Indian and Northern Affairs Canada. Thank you for inviting me to give a presentation.

The Indian and Inuit Art Centres of Indian and Northern Affairs are responsible for the preservation, development, and promotion of Indian and Inuit art for their collection through acquisition, loan, exhibitions, and promotion.

The Indian and Inuit art collection represents works of art by Canada's most prominent Indian or first nations, Métis, and Inuit artists, as well as works by young emerging and mid-career artists. The collection of over 4,000 artworks includes representation from across Canada and of all major art forms, such as basketry,

beadwork, carvings, ceramics, drawings, installation art, paintings, photography, sculpture, and textiles dating from the early 1960s to the present.

Since I'm speaking on an art collection, I couldn't see just giving you text for your presentation, so I interspersed photographs of the images from the art collection. This one is from Norval Morrisseau, an artist from the Red Rock Band in Ontario. Norval Morrisseau is one of our most prominent master artists. He's a painter. What he's known as is a shaman artist, and what shaman artists are noted for is survival. That was the theme I was giving myself for this presentation, because survival is key, not just for aboriginal people, aboriginal artists, but for non-aboriginal artists and people all over the world.

The mission statement for Indian and Northern Affairs is working together to make Canada a better place for first nations, Inuit, and northerners. Increasingly, Indian and Northern Affairs' role has become one of facilitating change and bringing together the partners and interests needed to implement "Gathering Strength—Canada's Aboriginal Action Plan".

You'll notice that I use "Indian" at times versus "first nations". We recognize that many first nations people in Canada prefer not to describe themselves as Indians. However, we use the term "Indian" because it has a legal meaning, according to the Indian Act. The term "Indian" is considered outdated by many people and there's much debate over whether we should continue using it. The department's popular usage typically uses the term "first nations" instead of "Indian", except in the case of Indian art. The term "Indian" collectively describes all indigenous people in Canada who are not Inuit or Métis. Indian peoples are one of the three peoples recognized as aboriginal in the Canadian Constitution of 1982. It specifies that aboriginal people of Canada consist of Indian, Métis, and Inuit peoples.

There's also discussion in the art academic world that Indian is acceptable in Indian art because of the recognition of art schools. In Canada, there's an absolute recognition of Inuit art as an art school. There's also the Northwest Coast Indian art school, and we also recognize the American art schools of the American southwest and also the Woodland school, of which Norval Morrisseau, the artist I presented a while ago, is a founder.

When we deal with our programs, we are aware of the high population of aboriginal people in Canada, which is forever increasing. We notice it especially in the urban areas and we also notice it in the north. Nunavut has the highest Inuit population and Quebec's Inuit population is the second largest in the country. According to the last census in 2006 of Census Canada, on the international level among selected countries, the aboriginal peoples' share of Canada's total population ranked second, behind New Zealand, whose Maori population accounts for 14% of its total population.

The work that you see up there is by an Ontario artist named Zoey Wood-Salomon, and this work is called *Meeting with the Chiefs*.

The Indian and Inuit Art Centres programs have existed since the early 1960s at Indian and Northern Affairs. They were some of the oldest programs at the department. Inuit art development and promotion started in 1949 in the northern program, and the Indian art program was part of the education program, economic development, and is now part of the administration program in corporate services.

• (1545)

Since 1949, Indian and Northern Affairs has acquired a substantial collection of art. However, in 1990, the Inuit art collection, which was about 5,000 works, was transferred outside of the department. They were transferred to the Prince of Wales Northern Heritage Centre, the Inuit Cultural Institute in Nunavut, the National Gallery of Canada, the Canadian Museum of Civilization, the Winnipeg Art Gallery, and the Avataq Cultural Institute in Quebec. As well, during that time of devolution of the northern programs, Indian and Northern Affairs started the Inuit Art Foundation, a national aboriginal organization that was created and lives in Ottawa. It was started in 1987 with a publication to promote Inuit art. It's been in existence for 20 years, and the department funds this organization and we have authority to continue funding until 2012.

This work is by Benjamin Chee Chee, a deceased Ojibway artist from Ontario.

The Indian and Inuit Art Centres are now part of corporate services, as I said, and a lot of artists thought this was a strange program for it to be in. However, having been there for almost 23 years myself as manager, I've found that it has been the best place for it to be because aboriginal art is considered a valued asset at Indian and Northern Affairs, similar to what other collections would recognize, such as the Department of Foreign Affairs, which has a valued assets division.

Our annual operating budget is \$374,000; \$224,000 is for the Indian Art Centre, and \$150,000 for the Inuit Art Centre. The reason it's more for the Indian Art Centre is that we still have the collection that we collected from 1960, while the Inuit Art Centre just started to collect Inuit art again in 1997.

We also administer, as I said, the annual contribution grant to the Inuit Art Foundation of \$458,000. Both programs have been reviewed several times by the department for its relevancy to the clients, to the aboriginal people, and to the department. At all those reviews, it was found that it was still relevant to the mandate.

This is a bentwood cedar box by west coast artist, Don Yeomans.

We have an art acquisition budget—it could be smaller at times, and sometimes it could be a little bit larger, depending on what we get from submissions—usually it's \$160,000 a year. We also administer an art loan program once we acquire the work, and I will get more into the acquisition program later, but we also administer an art loan program from the works that are in the collection. We also have an Indian and Inuit art gallery, as you see here, situated in our building at 10 Wellington Street, Gatineau, and we have a research documentation library that's used not just by people in Canada, but by scholars from around the world.

In the work that we do with artists, we respect the Copyright Act, the Privacy Act, and the access to information laws with regard to artists' information. For example, when we purchase works from an

artist, they retain the copyright. We ask their permission to show their work at educational presentations such as this one. When people ask to borrow images of the collection for publications or for art exhibitions, we say that they should pay a fee that's actually outlined by the organization called CARFAC, which is the Canadian Artists Representation/Le front des artistes canadiens.

For the Inuit art, the Inuit Art Foundation has a copyright clearance service for a fee. We also pay exhibition fees for the artists in our collection, whether we have the exhibition in-house in our gallery or whether the works are loaned to other institutions such as the National Gallery or others.

• (1550)

The Indian and Inuit art collection is divided up into several sub-collections. For example, the Indian Art Collection has 3,041 works; the Inuit collection has 423; we also have a collection called the Alberta Collection, where we have 220; and we have the Dewdney manuscript collection, and we have a collection for educational, archival, and resources.

The Alberta collection was acquired by us at the request of artists from Alberta. In 1993, the Alberta collection, which was then owned by the Alberta arts and crafts corporation, was put up for sale at an auction. The aboriginal artists of Alberta didn't want to see the art work dispersed to the general public. At that time, they thought it would be purchased by Texas oil ranch collectors. They asked the department if we could buy it in one collection. The department got the money together, and we were able to buy it for \$75,000. I also heard that the artists at that time picketed the auction so that other collectors wouldn't purchase it. You can see that the aboriginal artists have a lot of faith in the department in terms of how we acquire and maintain the work.

We also purchase works, as I said, through commissions. This is one of the works that you see in front of you. It was commissioned when the building was installed in Gatineau, in 1978, I think it was. It was a commission by the Department of Public Works. However, it now belongs to the Indian and Inuit art collection.

At this time, the collection is valued at \$2,552,959. The estimated value is actually \$4 million or more. We've never really had an actual evaluation as that would cost money we don't have. But from what we see in the market today, that's the estimated value.

We accept gifts for the collection. Not only do we buy them at art acquisition programs, as you just saw, we have the special acquisitions, such as the Alberta collection. We have anonymous donations, artists' donations, and we have commissions. We also have gifts to the minister. Any gift that is given to the minister that's valued over \$1,000 becomes part of the Indian and Inuit art collection. Public donations are done through the Canadian Cultural Property Export Review Board, where we are designated as a category A institution. This allows us to issue tax receipts for public donations over \$5,000.

As you can imagine, because of the history of the collection from the early 1960s, we have no idea how a lot of work got into the collection. We think it may have been through regional purchases, in an attempt to help the artist at the regional level; or from other events, such as exhibitions that were done for the federal government.

This work is important in terms of its subject matter. It's a work that is actually in the office of Minister Jim Prentice right now. It's called *Elijah Harper and the Dead Heads*, and it was done by a west coast artist named Chuck Heit. It's an homage to Elijah Harper and his influence on the Meech Lake accord.

How we purchase art was done randomly prior to 1989. Since 1989, when I came on board, we have made sure that we have Treasury Board authority. Treasury Board authority was obtained to acquire Indian art for the purpose of displays, exhibition and loan of artwork, which is in support of promoting an emerging art form, and to maintain a representative Indian heritage collection for the benefit of all Canadians.

We also went to aboriginal artists for advice on how to acquire art. Many of the artists we consulted knew of the standard art acquisition methods from the Canada Council art bank, and from regional, or provincial and territorial, art councils—the same system as we use.

This group you see in front of you is our present advisory committee for the Indian Art Centre. We meet every two years. The last time we met, in 2005, discussions were about review of the Indian art program, review of our art acquisitions, better storage for our art collection, protection of intellectual property and traditional knowledge, and aboriginal self-identification. The people who are chosen for these committees are artists from the regions, and they are artists who are usually involved with artistic organizations.

● (1555)

Our art acquisition program is done through a national call for submissions. We send out our call for submissions in three languages: French, English, and Inuktitut. In the last 10 years we've had 54 acquisition exhibition programs. The person you see in front of you there is an example of an event that deals with an exhibition program. This artist was chosen. She is Innu from Mashteuiatsh, Quebec. Her name is Katia Kurtness.

When we have an acquisition exhibition program, it's an aboriginal event. We bring in entertainment. We have an opening. We ship the work to the department for the exhibition, and the artist comes in to set up the exhibition with us, thereby giving the artist a complete experience in art development.

We've averaged about four to six exhibitions a year over the last ten years, and it's been too much. We found that we didn't have time to do much collection maintenance. We've had to change our process since our last committee meeting in 2005, and based on our reduction in budgets, we now have biennial art acquisitions, which means every two years, which sets off the other year for collection maintenance.

I put this in because we work with a lot of people when we deal with aboriginal art; we don't just work with the artists. In Canada, we have in our collection 644 artists. We still need to communicate with the 615 first nations and Métis artists who are not in the collection. There are 123 Inuit artists in our collection, but there are actually 3,000 active Inuit artists we need to communicate with. We also deal with 108 art dealers across Canada, and we deal with over 600 first nations, 53 Inuit communities, and urban first nations and Métis.

For non-government organizations, we deal with the organization I just referred to, CARFAC, which is the Canadian Artists' Representation, or le Front des artistes canadiens; the Inuit Art Foundation; artist-run centres; aboriginal collectives; artist collectives; and aboriginal organizations. In the private sector, we deal with 440 art galleries, and in education, which would be universities, colleges, and schools, we have 88 in our database.

Our participation over the last 30 years has been quite vast. We've had an enormous number of exhibitions, but I wanted to point out the main ones we've had since 1997. We had an exhibition with the Assembly of First Nations, where they honoured the artists Norval Morrisseau and Alex Janvier. We've worked with the Canada Council for the Arts, and in fact the department funded the establishment of the Aboriginal Arts Secretariat from 1996 to 1998. We've recently done a project with the National Aviation Museum where they wanted to include northern artists, and they translated their invitations and correspondence into Inuktitut and English. We have constant loans with the Canadian Museum of Civilization and the National Capital Commission for events such as Winterlude and the "history on the Hill" project. We also work closely with Foreign Affairs and International Trade.

Just recently, in the last two years, we were involved with International Trade and with the Canadian missions in presenting a gift to St. Petersburg in Russia for their 300th anniversary. We also loan works to the Governor General of Canada, the National Gallery of Canada, and the Prime Minister's Office—and here I will refer to a project that is still ongoing and has been going on for ten years. We are about to finish it with an exhibition in northern Quebec, in Mashteuiatsh. I gave you this publication with the handout. It's an exhibition that was developed in cooperation with Indian and Northern Affairs and with Foreign Affairs and International Trade. It's an international travelling exhibition. It is at the end of its travelling schedule.

We have had enormous success with this exhibition in terms of being able to show it in nine different countries, and now we will end it with a showing in an aboriginal museum in Mashteuiatsh, the Musée Amérindien. That will be on June 21, 2007.

•(1600)

We also have had projects with the Russian Association of Indigenous People of the North. We've just finished a three-year Canada-Russia project with them that took place from 2002 to 2005.

In 2002 we held a conference in Tyumen', which is in eastern Siberia, with the indigenous people of Russia and the Inuit Art Foundation and some aboriginal speakers from Canada.

We then held the second project, which involved an exhibition in St. Petersburg at the Russian Ethnography Museum.

There was also a workshop held in Ottawa with the Inuit Art Foundation, entitled Connecting Cultures and the Business of Art.

In fact, the reason we worked on this project was that the Russian Federation for Indigenous People felt that the Indian and Inuit Art Centres at Indian and Northern Affairs and the Inuit Art Foundation were the model organizations and institutions for what they are trying to do in Russia.

We also have loans with the Senate of Canada.

This is a well-known contemporary artist, Robert Houle, who came with us and was invited to come to St. Petersburg for the exhibition. Here he is in front of a museum that he wanted to see.

How does the Indian and Inuit Art Centre fit into the mandate of Indian and Northern Affairs? First of all, we purchase art directly for the collection, directly from the artists. We don't go through an intermediary except sometimes for a gallery or a cooperative. We also make sure that we purchase only from artists who are living.

The Indian and Inuit art collection promotes the mandate of Indian and Northern Affairs by creating an awareness of aboriginal people in the work environment. There are only two government departments in Canada that have this authority from Treasury Board: Indian and Northern Affairs, and Foreign Affairs.

What does the Indian and Inuit art collection represent? It represents many things. First of all, it's *sui generis*. It's a unique collection, and it's a source of pride for all Canadians.

It's unique in the sense that the creative expressions by the aboriginal artists are based on our culture and on our experience. Indian and Inuit art collection is also a living collection. It's a model for aboriginal curatorship.

For example, in this photograph you see Yukon artist Ann Smith. Ann Smith is not just an artist; she has played quite a role in her community of Kwanlin Dun. She is Tutchone and Tlingit. She was chief of Kwanlin Dun at one time, but she is now a master weaver. She revived the lost art form of Ravenstail weaving. Here she is shown with three pieces, *The Robe*, *The Apron*, and *The Dance Anklet*, the footwear.

She made these pieces over a period of three to four years, and at each art acquisition we had, we purchased them. We now have the total robe in our collection, but what Ann does every now and again

that makes it so unique for our collection is that she will ask to borrow it. She will borrow it, use it at an event, dance with this outfit, with this robe, and return it. Nowhere else in Canada can you do this with a public collection.

Also, the Indian and Inuit art collection provides emerging aboriginal artists national and international promotion. No other public or art institution does this.

The Indian and Inuit art collection represents a legacy for future generations, and this is important. Aboriginal communities and aboriginal artists always mention this to us when we meet them.

And it was also mentioned in the last Auditor General's report that she tabled in 2005, where she mentioned how important heritage collections were. We were part of that study, and we were part of that report, and we got good commendations from the Auditor General's office because, for a small operation, we have protected and maintained and put resources into our heritage collection.

•(1605)

As well, our collection completes the Canadian art history for Canadian art institutions. For example, this is a painting done by deceased artist Gerald Tailfeathers, who was a Blood from Alberta. Gerald Tailfeathers was a painter who painted images in the 1970s and 1980s.

This piece is in our collection; it's called *The Drinking Party*. You would not find this in other art collections, because people are uncomfortable with issues that are real to aboriginal people. This was an issue that has always been part of our history and still is today. Now the National Gallery of Canada borrows works by this artist, and has borrowed this work for an exhibition they are now putting together—and have been putting together for the last two years—called Art of this Land.

Prior to 1985 the National Gallery did not have aboriginal art. This is why our collection is so important as well—because we complete the art history that no other art institution was doing during the last 100 years. We have been doing it and we complete that art history.

That's the end of my 20-minute presentation.

You also asked me about the future of the collection. The artists have been saying they want the collection to stay at Indian Affairs and Northern Development until a suitable aboriginal organization is found. They want us to continue the art acquisition program. To do that, because of our limited resources, we have to increase our partnerships with Canadian art institutions, government departments, and private industry. As you can see, we have already had a history of doing that.

Thank you very much.

The Chair: Thank you. I know we went a little over time on that, but it was very interesting.

The first question is from Mr. Bélanger.

[Translation]

Hon. Mauril Bélanger: Thank you, Mr. Chairman.

Thank you, Ms. Gray.

In your presentation, you say that you have an operational budget of about \$340,000 and another amounting to \$150,000.

Mme Viviane Gray: I divided the budget in two: part of it is earmarked for the Inuit Art Centre; the other is for the Indian Art Centre.

Hon. Mauril Bélanger: How many people are employed in these two centres?

Ms. Viviane Gray: For the acquisition of works of art?

Hon. Mauril Bélanger: No. How many people are actually employed there?

Ms. Viviane Gray: We have six employees.

Hon. Mauril Bélanger: Okay.

Ms. Viviane Gray: These are full-time employees. We also have part-time employees, students and contract workers.

Hon. Mauril Bélanger: Okay.

I have two questions: one regarding your consultations with the aboriginal community, and the other, on the collection's nature and methods of preservation. I have received comments on this matter, which is why I am asking you these questions.

What standards are you using to control the ambient temperature of the rooms where the works of art are conserved? Are these norms used in other federal institutions?

Ms. Viviane Gray: Our standards are comparable to those of the Department of Foreign Affairs, because we have the same types of collections.

Last week, we saw these collections in Gatineau, in a new building built and managed by Public Works and Government Services Canada. There was no adequate temperature control there either.

Hon. Mauril Bélanger: So, if I understand what you're saying...

Mme Viviane Gray: There is no adequate ambient temperature control.

Hon. Mauril Bélanger: ... the collection is not being protected the way it should.

Ms. Viviane Gray: No, the collection is not protected in the same way as the collections at the National Gallery of Canada and in Canadian museums. However, our standards are comparable to those of other government collections.

This is always a real concern for the artists, and we are trying to come up with a solution to this problem.

Hon. Mauril Bélanger: You mentioned Norval Morriseau, who, by the way, had a very beautiful exposition at the National Gallery of Canada. Your collection includes some of his hand-written letters; apparently, the ink is starting to fade.

•(1610)

Ms. Viviane Gray: Not really. Two years ago, we hired some students to protect these artifacts.

Hon. Mauril Bélanger: How?

Ms. Viviane Gray: They were photographed and are now in digital format.

Hon. Mauril Bélanger: Where are the originals?

Ms. Viviane Gray: The originals are in archive boxes, which are preserved according to archive methods.

Hon. Mauril Bélanger: Are these boxes at the National Archives or are they still with you?

Ms. Viviane Gray: With us. Some people from the National Library come over to see how these artifacts are being preserved.

Hon. Mauril Bélanger: Have you ever asked other agencies, such as the National Archives, to preserve these artifacts for you?

Ms. Viviane Gray: Yes, but they don't want to. They say that these artifacts are well preserved with us.

Hon. Mauril Bélanger: Okay.

What system do you use for inventory control?

Ms. Viviane Gray: We have a computerized system called IO. This American system was specifically designed for museum collections and is also used in other art institutes. We have been using this computer system for ten years, and it is the best computerized inventory control we've ever had. We know where each artifact is located. All the artifacts are photographed and entered into a computer. Simply by clicking, we can see where the artifact is located and under what conditions it is preserved.

Hon. Mauril Bélanger: So the inventory identifies each artifact.

Ms. Viviane Gray: Some artifacts are missing, but this also happens in the other museums. We have just met with representatives from the Department of Foreign Affairs who lend their artifacts to foreign missions. We asked them if they ever had any missing artifacts. They replied that although it did happen, the artifacts were not really missing because they sometimes showed up again. They are sometimes recovered.

Hon. Mauril Bélanger: There are no missing artifacts in Canada?

Ms. Viviane Gray: Based on the inventory, about 18 or 20 artifacts are missing.

Hon. Mauril Bélanger: Does anyone know where they are?

Ms. Viviane Gray: No. The Department's intranet site includes a list of these artifacts. We have art coordinators in every region, and they can help us recover these artifacts. Some artifacts are sometimes borrowed from offices; sometimes, when people leave, they take the artifacts with them.

Hon. Mauril Bélanger: At the Department's request, Mr. Houle conducted a study during the 1980s and made several recommendations on the collection and how it should be maintained.

Are you aware of this report?

Ms. Viviane Gray: No, I am not aware of it, but I could find it if you like.

Hon. Mauril Bélanger: If you find it, I would appreciate receiving a copy because we can't seem to get hold of one.

Ms. Viviane Gray: What is his name?

Hon. Mauril Bélanger: Robert Houle.

Ms. Viviane Gray: Yes, I do recall now. We have a copy of this study.

Hon. Mauril Bélanger: Could you forward a copy to the committee?

Ms. Viviane Gray: Yes.

Hon. Mauril Bélanger: Thank you.

[English]

I will come back if I can, Mr. Chairman.

The Chair: Thank you.

Mr. Kotto.

[Translation]

Mr. Maka Kotto (Saint-Lambert, BQ): Thank you, Mr. Chair.

I have two quick questions, because we are running out of time. I will let others delve into this more deeply.

Are you aware of the report that the Auditor General released two years ago on the conservation of works?

Ms. Viviane Gray: Yes. We took part in this study. Representatives from the Office came to see us to find out how we proceeded.

Mr. Maka Kotto: Very well. This report was rather alarming.

Ms. Viviane Gray: It was what?

Mr. Maka Kotto: Rather alarming.

Ms. Viviane Gray: Yes, but not as far as we are concerned. It was aimed more at the National Archives and Parks Canada.

Mr. Maka Kotto: So you were not criticized in this matter.

Ms. Viviane Gray: No.

Mr. Maka Kotto: An artist's work is designed to travel and not to be preserved inside a box.

The Musée du Quai Branly, which is considered the world's leading tribal art museum, has just opened in Paris. It asked for indigenous, Inuit and other works of art from Canada and the province of Quebec. It did not receive a positive response. It received two artifacts, which it exposed. The people at the museum were somewhat disappointed, if not to say frustrated, given our lack of response to their request.

What is your position on this?

•(1615)

Ms. Viviane Gray: I don't remember receiving such a request. We sometimes receive requests from other countries, but we can't...

Mr. Maka Kotto: The only tribal art museum, as it is called, is located in Paris.

Ms. Viviane Gray: We did not receive any request from this museum.

In order to have an exposition in other countries or to lend artifacts, we cannot act alone because that is not our mandate. We have to work in tandem with the Department of External Affairs.

Mr. Maka Kotto: The request was officially made to Canada, but did not reach you directly. There was a communication problem.

Thank you very much.

[English]

Ms. Viviane Gray: Are there any more questions?

The Chair: Mr. Angus.

Mr. Charlie Angus: That's very interesting. I was quite thrilled to see the artwork in the Gatineau office. The first time I saw it, I wasn't there as an art connoisseur. I was working for Algonquins of Barriere, and we occupied the building. Since we spent the entire day waiting to speak with the minister, we were able to visit the exhibits, and they were quite interesting.

A lot of people haven't seen the art, and it is quite a collection. Is there a long-term plan to expose our Canadian population to it, or to house it in a permanent museum that's accessible? Is there a plan?

Ms. Viviane Gray: There are plans being talked about for a national aboriginal art gallery. It coincides with the 2010 Expo in Vancouver. I haven't seen anything in the last year. I know that in the last discussions artists were saying that it would be good for us to loan works to them.

Mr. Charlie Angus: I'll go back a bit to the politics of INAC. It's nothing against your colleagues, but I found that over the years Indian Affairs has been brutally inefficient on basic things like first nations health, elders, seniors, you name it. Everything falls through the cracks. I'm very surprised to see such a well-planned, efficient delivery of service in the arts area.

Are you there as a bureaucrat or as an artistic director? How did you find your way into the Kafkaesque world that is INAC?

Ms. Viviane Gray: First of all, I'm aboriginal. I'm Mi'gmaq from Listuguj first nations in Quebec. My passion for the arts has been with me for 40 years. I'm almost 60 and about to retire. I hope I find somebody with the same passion to work in this area.

Indian and Northern Affairs is part of my life and has always been. It hasn't been that difficult to work there. For some reason, the support we get from the aboriginal community is astounding. They bring me gifts, they talk to me. When chiefs come to see the minister, a lot of times they'll come and see me. It's not just me; it's what's there. They want to see the collection. They want to make sure that we're responsible for it and that we're taking good care of it. That connection is so important.

It's not just first nations; it's everyone, including Métis. There is an Inuit woman from Igloodik. She had an exhibition in 2005, which she helped put together. It was quite touching for her, because she saw photographs that Indian and Northern Affairs had collected of Inuit for 50 years. When she saw one of them, she broke down in tears and told us that this was the only photograph she had of a daughter who had been killed in front of her. It was emotional. That kind of connection is with people, and that's what keeps the place going.

Mr. Charlie Angus: You mentioned your connection with the Canada Council for the Arts. I know the important role Canada Council plays in helping to encourage new talent. Do you have any connection with the jury process, in choosing who gets support at Canada Council? Do you have any of that sort of cross-fertilization, or is it completely separate?

Ms. Viviane Gray: It's completely separate. Sometimes they will ask me to sit on juries because of the specialty I have, but it's a separate operation.

Mr. Charlie Angus: They would consider bringing you in for the juries, because of your expertise?

Ms. Viviane Gray: Yes, or we will recommend people for specialties they're not aware of.

The Chair: Mr. Fast.

Mr. Ed Fast (Abbotsford, CPC): Thank you for coming and speaking to us today. This is all new to me. It's the first time I've had any idea of what's involved in the collection of Indian and Inuit art in Canada.

You referred to something like \$458,000 going to the Inuit Art Foundation.

•(1620)

Ms. Viviane Gray: That's right.

Mr. Ed Fast: Could you explain what the foundation does. Did I miss that?

Ms. Viviane Gray: I had to go over it quickly because I didn't have much time.

The Inuit Art Foundation was set up to take over the marketing and promotions that Indian and Northern Affairs was doing in the 1940s, 1950s, and 1960s. By the time the northern programs were developed and had begun devolving to Nunavut during its creation, the Inuit Art Foundation was already in existence. They did a magazine called *Inuit Art Quarterly*, which is still published.

Canadian dealers in Inuit art asked that the department fund this organization to help them market and promote Inuit art. They've been doing it for 20 years now. They're located on Merivale Road and have a great website. I wanted to bring you some information, but it was only available in English and Inuktitut, so I couldn't bring it in.

Mr. Ed Fast: So they receive around \$450,000 per year?

Ms. Viviane Gray: For core funding.

Mr. Ed Fast: Core funding.

Ms. Viviane Gray: It's for administration and board meetings—because they have to bring Inuit representatives from the north for meetings—and the publication of *Indian Art Quarterly*, and for a training program for urban Inuit in the arts.

Mr. Ed Fast: And that's restricted to Inuit art?

Ms. Viviane Gray: Just Inuit art, yes.

Mr. Ed Fast: Is there an equivalent foundation for Indian art?

Ms. Viviane Gray: No.

Mr. Ed Fast: And they haven't asked for it?

Ms. Viviane Gray: No, it's a different area. Inuit art and first nations art are very different; Inuit art is very controlled by art dealers and the art market, so it's a very different area. It would be nice; I'd like to see that. I'd like to see the equivalent for first nations.

Mr. Ed Fast: Also, I have a question regarding the process of how the Indian art acquisition program actually works. That program allows you to purchase Indian art, and Inuit art presumably.

Ms. Viviane Gray: And Métis art.

Mr. Ed Fast: And Métis art.

Do you also facilitate the sale of other art to the public?

Ms. Viviane Gray: No.

Mr. Ed Fast: It's strictly an acquisition program for you?

Ms. Viviane Gray: It's strictly for the collection, yes.

And the artists came up with criteria so that 60% is for emerging or new artists and 40% is for mid-career and prominent artists—and we still keep that division. We make sure there's regional representation and representation by gender as well, and sometimes we have regional juries. If we find, for example, that the north seems to be badly represented—the Yukon, the NWT, and Quebec and the Maritimes—we will have special juries every now and then just to get more from that region.

I didn't have time to show you this as well, but on the Indian/Inuit art site for Indian and Northern Affairs, we have the results of the last acquisition, which was fiscal year 2005-06. And you'll see photographs as well.

Someone was asking how we could better promote or show the art to Canadians. It's not easy; you need money. For example, just to show work on our Internet site from the artists we have—there are 34 works—we had to pay each artist for the right to show their work for one year. If we want to show other art, we have to pay the artists as well.

So to try to show a collection of 4,000 pieces would be phenomenal; we couldn't afford it.

Mr. Ed Fast: Maybe that's where the Copyright Act comes in.

Ms. Viviane Gray: We do respect copyright.

Ms. Tina Keeper (Churchill, Lib.): That darn Copyright Act!

Thank you, Ms. Gray.

It was really exciting to hear your presentation, and I'd just like to make a comment on what you were saying about the response by the community, when you were responding to Mr. Angus' question about the department and the ownership that people feel about the collection. As a first nations person, I know there is the sense that preservation is really important because we don't have our own archives in our community. I think that component of it is really critical to the communities, be they first nations, Inuit, or Métis.

I'd like to go back to the mandate you were talking about. One of the statements you made was that you don't purchase art except from artists who are alive.

Ms. Viviane Gray: That's right.

Ms. Tina Keeper: I'd like to ask you about that, because there are significant pieces of work that come from artists who have passed on. In terms of looking at the different aboriginal groups and how they have contributed to the development of the art form—because western art forms are recent, and so it's interesting in terms of the western conventions and how they started and how we've moved through those processes in a very short period of time—some of the artists with very prominent places in those art histories have now passed on.

Could you speak about that a bit?

• (1625)

Ms. Viviane Gray: We are often told we should not be crossing over into somebody else's mandate, and when you go to Treasury Board to get authority they make sure you're not copying or duplicating somebody else's work. Other art institutions, such as the Museum of Civilization, the regional museums, provincial museums and the National Art Gallery, all have the mandate to purchase from deceased artists or from artists who have passed on.

We can't, because our mandate or authority is only for emerging artists, and so they have to be alive.

Ms. Tina Keeper: How is it that your mandate on emerging artists doesn't cross over with the Canada Arts Council, which does a lot of work on emerging and mid-career artists?

Ms. Viviane Gray: We work closely together. It's just for the collection, remember. The Canada Council gives grants. We don't give grants; we just purchase art for the collection.

Ms. Tina Keeper: Okay. I'd like to ask as well about a statement you made in the beginning about "Gathering Strength". Can you explain that? I'm surprised you're still using the term "Gathering Strength"—

Ms. Viviane Gray: I know. I am too.

Ms. Tina Keeper: You're the one office, maybe, within INAC that is still holding on to "Gathering Strength". Could you explain what that was and how you feel that it applies to your work?

Ms. Viviane Gray: Well, "Gathering Strength" really stressed a collaboration, a partnership with first nations. I was told there are strict rules in addressing this committee, so I didn't want to make anything up. I went to our Internet site and went to our publications and got the information that's there. Unfortunately, it still mentioned "Gathering Strength", and that was the only reason I used it.

It's something that applies to our program mandate and how we do things.

Ms. Tina Keeper: So it's the principles under "Gathering Strength", which really isn't part of INAC'S policy development anymore. Those are the principles that you feel guide your...

Ms. Viviane Gray: Yes.

Ms. Tina Keeper: I'd like to ask one more question. I'm still a little confused about your mandate, because you talked about Alex Janvier and Norval Morrisseau, and these are pre-eminent artists. I suppose you're talking about travelling exhibits or promoting their work, but I'm really confused about how the mandate doesn't address the art history of aboriginal artists.

Ms. Viviane Gray: We do, but not directly. We do it through the academics. We have a very strong connection with academics all across Canada. They come to us to do research, because of the long history that we have in the collection and the information for the collection. We're involved with them at all levels—teaching, seminars, workshops. In that way, we provide the history, because we have the content, we have the collection, and we have the connections as well. But we don't directly do publications. I wish we did.

In Australia they have the most amazing publications on aboriginal art, which show images of the artists with their work.

Ms. Tina Keeper: Is that work that's done by the government?

Ms. Viviane Gray: I'm not sure. I didn't really look into it, but you need money to do all these things, and I wish we had it.

Ms. Tina Keeper: Do you see a deficit in your program because you're not able to do that component?

Ms. Viviane Gray: Yes. For example, somebody asked a question about the Inuit Art Foundation. They get a contribution grant to publish a quarterly, which is internationally known. It's an amazing magazine. I wish the same kind of contribution would go into first nations. It's difficult for them. It's even difficult for the Inuit Art Foundation to get money from Canadian Heritage. They don't fit the programs. In fact, two years ago we tried to get the Department of Canadian Heritage to take on some of the support for the Inuit Art Foundation. Because of their economic aspect—they sell, they marketing art—it didn't fit into their programs. So it came right back to Indian and Northern Affairs, which is fine by me, because we enjoy having them with us, but there should be more support all around.

• (1630)

The Chair: Thank you.

Mr. Angus, do you have any more questions?

Mr. Charlie Angus: No.

The Chair: Do we have any more questions on this side?

Mr. Warkentin.

Mr. Chris Warkentin (Peace River, CPC): I will follow up on Ms. Keeper's comments and questions with regard to the collection. When was it established that this would be a collection only of emerging artists? Do you find it difficult to find out who's an emerging artist and limiting it to those people? I'm just curious, and I think Ms. Keeper is probably touching on some of the questions that maybe all of us would ask. How can we put a collection together of significant pieces from just-emerging artists and not include those people who are maybe more established artists?

Ms. Viviane Gray: We do also include more prominent artists. It's just that the prominent artists know they have a better chance of getting acquired elsewhere— people like Alex Janvier and Norval Morrisseau. Remember, it's the artist who defines this criterion. They want to give a chance to the new artists, just as they had in 1960. Now they're prominent 40 years later. The artists you see, we saw collecting in 1982, people like Jane Ash Poitras, Joane Cardinal-Schubert, and Carl Beam. There are so many artists. They are now prominent. So that's how it goes. It takes time.

Mr. Chris Warkentin: So part of the mandate would be just to launch the careers of artists.

Ms. Viviane Gray: Of new artists, yes.

Mr. Chris Warkentin: So that's a significant part of that.

Would there be value in looking at how...? It has obviously been an effective program. What other measures would be necessary to encourage more young emerging artists to be involved?

Ms. Viviane Gray: At our department, or elsewhere?

Mr. Chris Warkentin: It could be through your department or elsewhere. I just know that in many of the aboriginal communities in my riding, it's a very important part.

Ms. Viviane Gray: I'd like to see more education outreach done for communities, especially remote communities. They're the ones that should be seeing this collection, whether it's the actual objects, a slide presentation, or an artist coming in to give a talk. Everybody knows Ms. Keeper, and people like her are role models. Visual artists can also be role models, and they're needed in schools. I'm an artist as well, but my function is more as an administrator of an art collection. When I go back to my community, though, the school wants me to come and talk. It could be my holiday, but that doesn't matter; I have to do it because it's my community.

So I would like to see more outreach and more money put into education. You can't get those funds from the Canada Council or the arts grants organizations because this deals with education. Schools don't know where to go.

Mr. Chris Warkentin: By having it on the Internet, you're certainly going to address some of it, and we thank you for that.

Ms. Viviane Gray: But it takes money to put more—

Mr. Chris Warkentin: Absolutely, and I think you have certainly mentioned that.

Thank you very much.

Ms. Viviane Gray: You're welcome.

The Chair: Thank you.

Mr. Bélanger.

Hon. Mauril Bélanger: Just out of curiosity, how many people visit the collection on an annual basis?

Ms. Viviane Gray: We have an art gallery, so we get a lot of visitors there. We also show works in our main lobby at 10 Wellington Street. We get a lot of people. I get a request at least twice a week to come down and give a tour. On the average as well, just for people to come in and see...they don't actually see the collection, because it's hard on the collection to touch it, to see it, to move it. They have access to everything on our database, and we get

quite a few requests, not just from the department but from outside as well.

Hon. Mauril Bélanger: I'm not sure I understood. Is it by appointment?

Ms. Viviane Gray: It's by appointment, yes. We're a small staff.

Hon. Mauril Bélanger: I haven't been to a protest with Charlie. Perhaps I should go.

So if I wanted to go and see it, I'd have to make an appointment?

Ms. Viviane Gray: Yes, make an appointment.

Mr. Charlie Angus: I was protesting Liberals.

Hon. Mauril Bélanger: No, you weren't. Not that time.

Ms. Viviane Gray: If you go anywhere, if you go to Foreign Affairs, since 9/11 it has not been easy to get into our government departments anymore. That's why appointments are needed.

•(1635)

Hon. Mauril Bélanger: So if it weren't in a government department, it could be more accessible.

Ms. Viviane Gray: Yes, it would be shown.

Hon. Mauril Bélanger: That's an interesting concept.

You have an acquisition budget of \$160,000. Is that over two years?

Ms. Viviane Gray: Yes.

Hon. Mauril Bélanger: I didn't catch how often you put a call out for...

Ms. Viviane Gray: Every two years. We're about to put one out in January, which means we give the artists six months to put in a submission. We then try to do the jury in a matter of two to three months. It takes about six to eight months for an acquisition jury.

Hon. Mauril Bélanger: I saw somewhere that you had made acquisitions for some \$80,000. When was that?

Ms. Viviane Gray: Just recently, yes. That was for 2005-06, and the results of those acquisitions are on our Internet site.

Hon. Mauril Bélanger: So you make one every year?

Ms. Viviane Gray: Every two years. Because our budgets are limited and because of staff, this year we've been putting our money into maintaining the collection: getting it framed and conserved, making sure it's in good shape, doing inventories. Next year we'll do the art acquisition.

Hon. Mauril Bélanger: So you're using part of the acquisition budget to do maintenance on the collection?

Ms. Viviane Gray: I have to. It's operational money. We also have the consent of the artists for that, because they're very concerned about the condition of the collection.

Hon. Mauril Bélanger: Yet I got the impression awhile ago that it was quite okay.

Ms. Viviane Gray: It is okay, but they want to make sure we make it stay in that standard. You need to put work into a public collection.

Hon. Mauril Bélanger: I am aware of that. I've been on this committee on and off for 10 years.

Ms. Viviane Gray: Your questions, if I can say, are very similar to questions that have been brought to me over the last year by a former employee who has been very inquisitive about the way we do business and the way the collection is kept. I'm wondering if this has any connection with your questions.

Hon. Mauril Bélanger: I don't know. I don't know who your former employees are, madame.

Ms. Viviane Gray: They're the exact same questions.

Hon. Mauril Bélanger: I'm getting a sense of being accused here of asking questions. That's my duty as a parliamentarian.

Ms. Viviane Gray: I know, but—

Hon. Mauril Bélanger: Are you familiar with the Aboriginal Curatorial Collective?

Ms. Viviane Gray: I am, and that's the very collective I'm referring to. It is headed by a former employee who has been—I can't even say the right word—examining us very closely.

A voice: Do you need your lawyer?

Ms. Viviane Gray: I might.

Hon. Mauril Bélanger: Am I hearing you say that these are not legitimate questions?

Ms. Viviane Gray: They are not legitimate questions. That's why I'd like to invite you to see what we do.

Hon. Mauril Bélanger: Certainly, I will accept your invitation.

Ms. Viviane Gray: Upon appointment.

Hon. Mauril Bélanger: The problem is that as a parliamentarian, if someone brings me something.... I have no idea if this person was a past employee.

Ms. Viviane Gray: He is an angry past employee.

Hon. Mauril Bélanger: You don't know who I talked to, madame.

Ms. Viviane Gray: I know who you talked to.

Hon. Mauril Bélanger: I find it awkward. If I can't, as a parliamentarian, talk to people and ask questions without being accused of asking questions that are not appropriate or legitimate, there's a problem here.

Ms. Viviane Gray: You can, and I appreciate your concern for that group or person.

Hon. Mauril Bélanger: Because you have no idea where I'm trying to go with this.

Ms. Viviane Gray: I will continue to answer your questions.

Hon. Mauril Bélanger: If there's a situation where a very valuable and important collection is perhaps in need of greater financial assistance, that's part of our job.

The Chair: The time is up now on that question. Maybe you'll have another chance as we go around.

Are there no questions on this side? Okay.

Because we have gone around a few times, I would like to say one thing as chair. I know what collections and archives have not been looked after over the years. When I first came on committee we talked of the Library and Archives getting put together. We know collections were in some deplorable situations.

As we go forward, we want to make sure that all collections, whether they're art or other artifacts, are looked after properly. I hope that as time goes on your collection stays good and your acquisitions go along the way they have.

I thank you very much for your presentation here today. I've learned a lot. I'll try to make an appointment to come over. Maybe Mr. Bélanger and I will come over together to have a look at the collection.

• (1640)

Ms. Viviane Gray: All right.

The Chair: Thank you very much.

We're going to have a short recess and then we'll be back.

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_____ (Pause) _____

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• (1645)

The Chair: Order.

The other day, when we didn't have translation, I started into the court challenges program hearings. I started to read off some of my concerns. This, then, continues with regard to the court challenge program.

On Wednesday, October 25, while the committee was planning its future meetings on the above-mentioned subject, we learned that a petition had been filed at 10:30 a.m. the same day at the Federal Court in Fredericton.

I'm going to ask Jacques to read the names off, because they are all in French.

Jacques, please.

The Clerk of the Committee (Mr. Jacques Lahaie): In this case the plaintiffs are as follows:

[*Translation*]

the Fédération des communautés francophones et acadienne, la Fédération nationale des conseils scolaires francophones, la Fédération des associations de juristes d'expression française de common law, la Commission nationale des parents francophones and the Quebec Community Groups Network.

[*English*]

The Chair: Thank you.

The *sub judice* convention is an unwritten convention whereby the House and its committees voluntarily refrain from discussing matters that are before the courts. The convention has two aims: to protect the parties in a legal dispute from any prejudicial effect that could result from a public discussion of the issue by parliamentarians, and to maintain a separation of mutual respect between legislative and judicial branches of government.

As regards the first aim, the convention seems to apply differently to criminal and civil cases. It applies much more rigorously in criminal matters. Indeed, the House and its committees on principle do not discuss any case in which a person has been formally charged with an offence. The application seems more flexible in civil matters, where parliamentarians' freedom of speech is restricted only when the merits of the case are being heard, and not from the time of action in commencing or during any interlocutory proceedings.

As regards the second aim, which concerns the principle of the separation of powers, the convention should apply equally to criminal and civil cases. The importance of this aim is made clear in the following comment made by the Supreme Court of Canada in *Vaid*:

It is a wise principle that the courts and Parliament strive to respect each other's role in the conduct of public affairs. Parliament, for its part, refrains from commenting on matters before the courts under the *sub judice* rule. The courts, for their part, are careful not to interfere with the workings of Parliament. None of the parties to this proceeding questions the pre-eminent importance of the House of Commons as "the grand inquest of the nation".

In a number of recent decisions, the courts have recognized the parliamentary privileges of the House of Commons, thereby acknowledging its independence from the judiciary. To maintain that flow of favourable decisions and retain the sympathy of the courts in its regard, the House must, in my opinion, reciprocate by respecting the independence of the courts.

As Marleau and Montpetit state in *House of Commons Procedure and Practice*, "...the perception and reality of the independence of the judiciary must be jealously guarded." Therefore, now that the matter is before the courts, the House and its committees should refrain from discussing it in order to avoid the risk of encroaching on the independence of the judiciary.

I should remind all members of the committee that this is the position this committee took a few months ago in the case of *Telefilm Canada*.

So this is the decision I have taken, in consultation with the clerk and with various other people, and I am open for comment.

Mr. Angus.

Mr. Charlie Angus: Although I certainly don't want to show that I didn't bring my book with me today, the fact is that I didn't bring it. I have to ask a question for clarification.

Are any of the parties to litigation parties that are scheduled to appear before our committee?

• (1650)

Hon. Mauril Bélanger: May I?

The Chair: Yes.

Hon. Mauril Bélanger: I didn't realize any had been scheduled. I thought we were determining who we'd want.

The Chair: We haven't got anyone scheduled yet.

Hon. Mauril Bélanger: Some of them are on the list. But if we decide to proceed, then it would stand to reason they shouldn't be called, that's for sure.

Sorry, I am attempting to answer Charlie's question.

The Chair: Those coming before the committee have not been selected.

Mr. Charlie Angus: Yes, I know. We laid out a possible scenario.

My only concern here, Mr. Chair, is that the parties to this litigation would be significant parties to hear from, if we were going to go ahead with this. If these people weren't here to speak, I would have to question why everybody else is speaking, because they have a major voice.

I would be unsure how we would proceed if... Clearly, we cannot have parties to litigation coming before us and setting up a parallel process. But if they weren't there, I would question whether we'd go ahead without them, because I think we'd also leave ourselves open to not having a complete and full review of what we have the power to do here. But without them, I don't know if there's much point.

The Chair: Thank you.

Mr. Bélanger.

Hon. Mauril Bélanger: Mr. Chairman, I have not read the... Perhaps the clerk or the researchers could help us in determining what indeed the litigation concerns specifically. I suspect it may be specifically referring to two things. One is the Official Languages Act, subsection 43(2), which states that—and don't pin me down here—the Minister of Canadian Heritage shall consult in making decisions concerning programs that would affect the implementation...enhancing the use of French and English in the country. Roughly, that's what it says.

The other document they may be referring to is a document that all party leaders, I believe, signed in the last campaign, which was to respect the Official Languages Act in terms of the spirit and its letter. If that is what the litigation is about, then my opinion is that it wouldn't prevent the committee from looking at the politics of the decision by the government to cancel the court challenges program. Certainly I would rally immediately, with the concept that none of the parties in the litigation be invited. But there are enough on the list submitted before us that the...

For instance, the group from Prince Edward Island would cover the francophone, the linguistic side of it. The Gisèle Lalonde, Michelle de Courville Nicol, and the Montfort Hospital situation would cover those as well.

If the decision of this committee is to proceed not on the actual litigation, which we'd have to confirm, but on the overall debate, and if we avoided those groups, there would be other groups that could cover the linguistic aspect of the importance of the court challenges program, as well.

I'm putting that on the table to try to guide us as we go forward.

The Chair: Mr. Abbott.

Mr. Jim Abbott (Kootenay—Columbia, CPC): Mr. Chair, for the edification of my friends on the other side, we—I and members of the government party—have had a chance to consider this. It's our position that with the court cases pending, it's inappropriate for the committee to be hearing witnesses to discuss the CCP.

I have an email from the Department of Canadian Heritage legal services that states:

...in the case of government officials (ministers, deputy ministers, etc.) our advice — as always when an issue is before the courts — is that...it would be inappropriate for them to comment on this case because the government's decision is currently being challenged in a court of law.

Now I recognized fully what Mr. Bélanger has just said and I'm absolutely positive that he said it in absolute good faith—I'm not questioning that for a split second—but it's not hard to imagine a situation in which we could have testimony before the committee that I, as the parliamentary secretary to the minister, would have to respond to.

We have privilege at this committee. What we're talking about right now is parliamentary privilege at this committee. These words that I'm uttering cannot be used in a court. However, once that gavel goes down, if a witness said something that I as the parliamentary secretary felt obliged to respond to on behalf of the minister, I'm not covered by that privilege anymore. As a consequence, it's our decision that we will not be taking part in committee hearings or subcommittee hearings as Conservative members.

Should any decision be made on the part of the other members to go ahead, that's fine. That's a decision they can make.

• (1655)

The Chair: Mr. Kotto is next.

[Translation]

Mr. Maka Kotto: Thank you, Mr. Chair.

The hypothetical case is similar to that of Telefilm. You have probably highlighted it in the conclusion of the notice we received.

We had two choices at the time: either hearing Telefilm in camera or suspend the works and wait for the cases pending before the courts to be heard. I had chosen to suspend the works. I did not want the exchanges with Telefilm to be conducted in camera, because in my opinion, the stakes were important enough for the public to be sufficiently informed about the Telefilm file and about the financing of a festival that has swallowed up a million dollars.

In the case that concerns us, I may also propose the possibility of hearing people in camera to find some middle ground with them. This is indeed a case in point. Even if we do not invite those who lodged a complaint or who are suing the government, we will inevitably bring up the issue and feed lawyers' arguments who will defend those sue the government.

Therefore, there is a possibility of an in camera hearing. I don't know what you think about it.

[English]

The Chair: Mr. Bélanger is next, and then Mr. Angus.

Hon. Mauril Bélanger: I was going to suggest the following. First, Mr. Abbott has said that the government members have met and have decided not to participate. Was that following a discussion related to the legal notice that the chairman read to us today?

Mr. Jim Abbott: No.

Hon. Mauril Bélanger: No? Okay.

I'm just trying to see...because today is the first I hear of this. It's the first you hear of it too—your own advice?

Mr. Jim Abbott: No. To be precise, I quoted the advice that we took from the department.

Hon. Mauril Bélanger: Fair enough.

Mr. Chairman, I would want a bit of time to also consult, because I've been in the same situation before, of chairing a committee when we had a *sub judice* matter brought to our attention, and it was clearly established at the time that the committee can go forward if it wants to. So we're clear on that; it's a choice we have to make.

In order to actually make that choice, we need to know precisely the litigation that is in front of the courts now, that was initiated last week. In the absence of that information, I don't think we can arrive at the right conclusion. That's the first thing I would do.

But the second thing is this. When we examined that matter, Mr. Chairman, we weighed very heavily the following: that you have to be careful not to invoke *sub judice* too liberally, if I may use that word, for the simple reason that it can then become a tool to shut down parliamentary deliberations: if a topic just becomes too hot to be debated, you get someone to initiate a legal action. I'm not suggesting that's what happened here, but you could conceive of it and therefore shut down all parliamentary debate, which is not what the *sub judice* convention ever intended. It's a balancing act of respecting jurisdiction and going forward very carefully.

I'm all for that, but I personally need a bit more information about the nature of this litigation, and I also want to consult Marleau and Montpetit, and perhaps some other experts, before arriving at my own determination. I'd encourage us to postpone a decision until perhaps the next meeting, until we've all had a chance to look at it.

• (1700)

The Chair: Mr. Angus.

Mr. Charlie Angus: Thank you.

I guess there are a couple of issues here. We definitely need to know the exact nature. If it is a legal action over the court challenges program, then it's very clear. If there's some variation on that, I think it changes it dramatically.

I'm looking at precedents with our committee in recent years. We had the issue, about which I felt very strongly, concerning having Mr. Rabinovitch come before us during the lockout. That was voted down, saying that there was action being taken and that until the lockout was settled we wouldn't hear from him.

I felt at the time we had the right to hear from him and pose questions on behalf of our constituents, because taxpayers' money was going to them and we were not receiving services; however, that was the position of our committee.

The other issue is, as Mr. Kotto said, the issue of Telefilm, where we had the opportunity to go in camera. I would suggest the situation is somewhat different, even though we at that time decided not to go that route. I would question the point of going in camera on this. We have very strong feelings, I would say, around this committee about the court challenges program; we know what we think of it. Bringing the court challenges program before our committee would be according to our right as parliamentarians to give it an airing, to look at it, to investigate it, to raise the issues. That's why we would be having it. To bring him in camera on this matter is not going to further illuminate this for us.

So the question is this. If some of the main groups have decided on their own to go through another process to have their issue illuminated, which would be to have it investigated and challenged through the courts, then I would suggest our role at that point would even be redundant, regardless of the other aspects. If this is clearly on the court challenges program, then I would suggest that obviously the public groups have made their decision and that we don't have a role in it at this point.

The Chair: One thing I'm going to suggest is that we ask the clerk and experts to come back to the next meeting to find out exactly what the challenge is. Is that fair?

Hon. Mauril Bélanger: Fair enough.

The Chair: Okay, that will be the instruction. Thank you.

We move to a motion by Mr. Scarpaleggia:

Given that Exporail, the Canadian Railway Museum, is the foremost guardian of Canada's railway history and heritage that serves as a central resource for the activities of other rail museums in Canada,

Given that Exporail is a museum of national significance that had benefited from special designation and recognition in 1978 by the National Museums of Canada Corporation,

Given that Exporail is on a short list of internationally-recognized rail museums,

Given that Exporail faces significant challenges to its ability to properly preserve Canada's railway heritage,

Given that Canada has officially-designated national museums for Aviation and Agriculture,

Given that progress on developing a national museums policy should not preclude immediate and targeted government action to address specific needs in Canada's museums infrastructure,

Given the existence of a significant federal budget surplus,

That the Standing Committee on Canadian Heritage request that the government officially designate Exporail as Canada's National Railway Museum with dedicated long-term funding outside of the Museum's Assistance Program.

Mr. Simms.

● (1705)

Mr. Scott Simms (Bonavista—Gander—Grand Falls—Windsor, Lib.): Mr. Chair, thank you for recognizing me.

I'd like to request a change here, an amendment. I'd like the amendment to change the last paragraph as follows:

That the Standing Committee on Canadian Heritage include in its upcoming report on the government's Museum Policy a recommendation that the government officially designate Exporail as Canada's National Railway Museum with dedicated long-term funding outside of the Museum's Assistance Program.

I'm adding "include in its upcoming report on the government's Museum Policy", and I'm then changing "request" to "a recommendation".

The Chair: Do you have that in writing?

Mr. Angus, did you have something?

Mr. Charlie Angus: I'll speak next.

The Chair: There has been an amendment proposed by Mr. Simms that the last paragraph read:

That the Standing Committee on Canadian Heritage include in its upcoming report on the government's museum policy a recommendation that the government officially designate Exporail as Canada's National Railway Museum with dedicated long-term funding outside of the Museum's Assistance Program.

Mr. Abbott.

Mr. Jim Abbott: This is exceptionally difficult because of the cooperation that we've had with Mr. Scarpaleggia and obviously by the questions that came from the Conservative side along with the other side to the people who came from my constituency, representing the rural rail museums.

Obviously, there is a tremendous amount of empathy, sympathy, whatever the appropriate word is, for where this motion is coming from. I have had the opportunity to contact Mr. Anderson and Mr. Johnson, who were the witnesses here, and they were concerned about this particular motion, wondering where it left them. So then we started to have just a small amount of dialogue about their becoming satellites to this and so on. The point is that while I am very sympathetic to the intent here, we simply don't have enough information for the committee to be binding when the committee does come forward with a report on museums, because this question of satellites or other things simply hasn't been canvassed or isn't part of this.

So with that in mind, I would ask if we could have a further amendment, simply because it isn't necessarily automatic that the government be given the opportunity to submit a dissenting report. In other words, there has to be some kind of designation, because if the report comes out without a dissenting report and we may be taken as having a negative vote on this, it doesn't mean anything. If this is going to go forward, we would want to be able to put down in black and white where we're coming from and why. I have no idea what that information or what that report would say, because we simply haven't had time to work this out either as a committee or as a Conservative caucus, or to get sufficient testimony and ideas.

So I would certainly be recommending to my colleagues that we would be voting against both the amendment and the motion, but not from the perspective of ill will, just from the perspective that this motion is very significantly premature.

•(1710)

Mr. Francis Scarpaleggia (Lac-Saint-Louis, Lib.): Thank you.

Mr. Chair, there are a couple of points I'd like to make. One is that the hearings of the last two sessions are probably—I'm making an educated guess—some of the most detailed and involved hearings any heritage committee on this Parliament Hill has had on the subject of rail museums. We spent two full sessions with the top actors and players in this area.

At one point, I believe Mr. Fast asked the question about satellite museums. Mr. Johnson—or maybe it was the other witness; I can't remember, Mr. Chair—said it was fine if we wanted to fund Exporail and treat them as satellites in some way. They didn't seem to have any problem with that.

The other point I'd like to make, Mr. Chair, is that we have a great railway heritage in this country, and that's what the last two sessions have brought out.

Second, there's a gaping hole in the museums infrastructure in Canada. The railway is such an important part of our history, and it's one of the few areas that is not officially recognized in our national museums infrastructure.

As I pointed out the other day, that is not the fault of this government, by any means. It's a problem that has existed for decades, I suppose, but even if it's not the fault of this government, there's an opportunity here to send a clear message to the government that it should look at this issue very closely.

I know, having been around this place for maybe as long you have, Mr. Abbott, in different capacities, how things get buried and get swept aside. I really think a motion like this, so amended, would simply alert the government to the fact that we think this is a priority and that they should look at creating a national railway museum or designating a national railway museum.

Mr. Chair, that museum will never be in Ottawa. The infrastructure is first-rate. The facility is first-rate, it exists, and it's in operation. It could be tied in with the Canada Science and Technology Museum like the Canada Aviation Museum is.

I don't know exactly how we could roll this out, but if we just say it's premature and we need to look at it in greater detail.... It reminds me of that joke that when you want to put something on the shelf, you give it to some other committee, or going back to Mr. Angus's point in the House, there are the 12 steps to doing nothing.

Again, I'm not saying that's where you're coming from, Mr. Abbott—not at all. I know you're pushing this in good faith, and you're a member of the government and you have to approach these things in a somewhat gingerly fashion. Of course it's the government that's going to have to act on it; it's not the opposition that's going to be implementing any decisions in this area, but our opportunity is now, and if we don't shine a light on it and don't underscore it as a priority, I would submit that we will be guilty of an omission or an oversight.

This motion, Mr. Chair, is not intended as a request to amend the Canadian Constitution. It's a statement of our intent to give this some attention. That's the spirit of it, and as I say, the museums that

appeared—including the Revelstoke museum—didn't seem to have any problem with being a satellite or a spoke in the wheel as long as they got some funding to continue their great work.

Thank you.

•(1715)

The Chair: Thank you.

Mr. Angus is next.

Mr. Charlie Angus: Thank you, Mr. Chair.

The motion puts me in a difficult situation, because I feel like I'm being asked whether or not I vote to support mothers. We do support; the question is whether it's appropriate here to make a recommendation.

I don't understand the amendment, first of all, because we haven't done a report yet, and I certainly don't think we bind ourselves to recommendations and conclusions if we haven't done a report. That's just not how things are done.

I've talked to people in the museum community nationally about how we should look at this, and there was a great deal of discomfort about our committee putting forward individual projects and saying we want permanent funding outside of the museums program, because we do not have the expertise to adjudicate how that should be done. I understand the concerns about waiting for museums policy and things not happening, but we would be setting a very dangerous precedent, and not just in terms of museums. There are amazing arts groups that have come before our committee. There is incredible talent out there. There are incredible areas of industry that are extremely underfunded, and we haven't said we want this one funded through a special amendment that we bring forward.

We sit down, as we did on film, and we bring forward general reports to ask the government to consider. I'm very concerned about our taking a one-off ad hoc approach to a particular museum. And there's nothing disrespectful. I think it probably is a national museum, but that has to be determined in terms of the museum community, in terms of policy, and in terms of how we lay out a larger view.

The Chair: Thank you.

Mr. Fast, do you have a comment?

Mr. Ed Fast: Yes. Mr. Angus just made one of my points, on the whole issue of prioritization. We've just had a suggested amendment to the motion that in fact refers to the museum study or review that we will do as a committee.

What we have had is one subgroup out of many subgroups within museums that have come before us. They've made a very compelling case, a very passionate case for their cause. However, there are many other types of transportation. We have cars. We have bicycles. We have marine. There are other types of museums outside of transportation that are all clamouring to get some national recognition, and certainly more national funding. For us now to move forward with this motion in a vacuum, so to speak, without having an opportunity to prioritize other proposals that will be put forward, would be a huge mistake.

I would encourage that we allow the process to be completed, so that we have a complete picture of where we're at. We need to do much more consultation before we start the prioritization process. There are significant financial ramifications to moving forward with this motion right now.

The group that was before us, Exporail, suggested they were looking at around \$4 million per year, I believe, in funding. That's just one organization. We had a suggestion from the other two proponents, in Cranbrook and in Revelstoke, who said they were not opposed to a national museum, provided they were part of it, as satellites, but we don't have a commitment from Exporail to include them as satellites and to include in their own funding as a national museum these satellite museums.

This can become quite convoluted. It would be very unfair to the many other sectors within the museum industry. So I would implore you to put this off. It's simply premature.

Mr. Scarpaleggia, you have come forward with a lot of passion on this issue, and I'm likely to agree with you on it, but let's make sure we have all the information in place.

The Chair: Mr. Kotto.

[*Translation*]

Mr. Maka Kotto: Thank you, Mr. Chair.

Just like Mr. Angus, the motion to amend the motion bothers me a little. The perspective is not the same. The committee voted, with a majority of votes, for a motion asking the government to set up a new museum policy discussed in 2005 as quickly as possible, all the while respecting the Department's conclusions and work. The motion also asked that this new policy, once completed, be examined by our committee before being tabled before the House and that a report be drawn up, which the House recently accepted.

The proposition was adopted in September, and the Minister has 120 days to follow up on it. It would be too much to expect not to wait for this Bill, which would be discussed here and allow us to propose such a motion depending on what the Department proposes. It was asked to conduct its work to this effect. I expect that these works, which may take the form of a Bill or a reply to the Committee's request, be submitted.

What bothers me is the amendment.

• (1720)

[*English*]

The Chair: Mr. Bélanger.

Hon. Mauril Bélanger: Mr. Abbott said this was rather difficult. It's triply difficult for me.

First, the same reasons as Mr. Abbott has apply to me as well. On those issues, we've had a real collegiality and done some interesting work. Second, it is difficult because it was moved by a colleague. Third, it moves us into something I'm not sure we agreed on. Here is where it gets tricky. In the amendment, we're talking about a report on museum policy. I've brought this up before, Mr. Chairman, as you may recall.

I have not signed on to a committee working towards a report on museum policy. I might, but for that to be the case, we as a group would need to know what we want to achieve and how we mean to achieve it. We have not had that discussion. So far, it's been haphazard. I need to be convinced that this is the appropriate forum. The amendment forces me towards accepting by stealth, if you will, that we are in the midst of a museum policy review, which we have not determined as a group.

Having said that, I understand where it's coming from and I share the same sense as everybody else does. A useful procedural rule would be for one of us, for me, to move that this be tabled until such time as our committee considers a report on a museum policy. This does not kill it. It keeps it there. We could then deal with it from a policy-driven angle, as opposed to saying, this is what we want to do. These kinds of decisions, in my humble opinion, should flow from a policy framework, which we have yet to adopt.

I'm getting a lot of nods on that side. I'm not sure if I'm getting any on this side. If this were to be helpful, Mr. Chairman—and I'm looking to you for guidance—I'd be prepared to move that this be tabled until such time as the committee considers a report on the museum policy. This leaves it open, because we may or may not do it. I'm being very upfront on this.

Thank you.

The Chair: You haven't moved yet.

Hon. Mauril Bélanger: No. In fairness to colleagues, we need to know where we want to go with this.

Mr. Scott Simms: I don't know how to go about doing this. After discussion with my colleague, I don't know how the government side feels about it, but I would like my amendment to stand as an amendment to my amendment. This is fun.

The current motion reads: "That the Standing Committee on Canadian Heritage request that the government officially designate Exporail as Canada's National Railway Museum with dedicated longterm funding outside of the Museum's Assistance Program." I would like to replace "request" with "recommend".

So the motion would now read: "That the Standing Committee on Canadian Heritage recommend that the government officially designate Exporail as Canada's National Railway Museum with dedicated longterm funding outside of the Museum's Assistance Program."

Hon. Mauril Bélanger: Mr. Chairman, I move that the motion and amendments be tabled until such time as the committee considers a report on museum policy.

The Chair: Okay.

Mr. Angus.

Mr. Charlie Angus: It's not a debate about that. It's a follow-up on another thing he said.

Mr. Jim Abbott: The clerk can help us with procedure, but I think that when a motion to table has been proposed there has to be an immediate vote on it.

• (1725)

The Chair: Mr. Bélanger has moved. We will vote.

Hon. Mauril Bélanger: If you're going to play that.... The rule, if I know it properly, is that what's debatable is the time of referral, not the motion. There could be debate, Jim. I said, "until such time as". Or: "if we consider a report, if ever we consider one". That's what I'm moving. I don't want to cut off debate.

Mr. Jim Abbott: Okay.

Hon. Mauril Bélanger: In fairness, I think we're all trying to go in the same direction. I sense that a majority of the committee agrees that we put the horse before the cart. We need to reverse them and give ourselves time to achieve it. That's all.

The Chair: I'm going to go to Mr. Bélanger's amendment that this be tabled until such time as a report is—

Hon. Mauril Bélanger: Considered by the committee.

Mr. Charlie Angus: "If a report"—it would have to be "if", because as Mr. Bélanger said, we have not committed to a report, so "if a report".

The Chair: Okay, here we are: that the motion be tabled until such time...if a report is presented to the committee.

Mr. Francis Scarpaleggia: Could you reread that? You said until a report is tabled to the committee; do you mean to the House?

The Chair: That this motion be tabled until such time as a report, if considered, by the committee....

(Motion agreed to [See *Minutes of Proceedings*])

The Chair: Yes, Mr. Angus.

Mr. Charlie Angus: Before we close to run for the vote, my concern is that, because we have been going here and there, we need to spend a bit of time. I'd like a brainstorming session where we could all put our axes at the door and talk about what we could possibly achieve by the spring. It could be museums, it could be television, it could be a number of things, but I really feel we need to focus on an area and produce a report, because we will not have much to show for this fall session.

The Chair: Just before Mr. Kotto speaks, one thing is that we could have one of those brainstorming meetings on where we're going on museums on Monday.

Mr. Charlie Angus: Where we're going on museums or where we're going in general?

The Chair: Where we're going in general, where we're going, are we going to work on a report? What are we going to accomplish, so we can bring in a report?

Hon. Mauril Bélanger: As we wait for legislation.

The Chair: Just one thing, Mr. Kotto first.

[*Translation*]

Mr. Maka Kotto: Mr. Chair, there is one issue that completely escapes me. I was not informed of the fact that the committee had a report to submit about the museums.

Hon. Mauril Bélanger: This is exactly what needs to be determined.

[*English*]

The Chair: We aren't. This is the thing—are we or are we not? Are we going to table anything? What we'll do on Monday is have a brainstorming. This is what will go on on Monday: we are going to be in camera because we're going to deal with the draft report on the Canada Travelling Exhibitions Indemnification Act, and we could then also deal with this.

We are adjourned.

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