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Chair

Mr. Tom Wappel

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Standing Committee on Access to Information, Privacy and Ethics

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• (0930)

[English]

The Chair (Mr. Tom Wappel (Scarborough Southwest, Lib.)):
Good morning, ladies and gentlemen. Thank you for coming.

Obviously, we don't have any witnesses, and that's the purpose of this meeting. I just wanted to advise you of the situation. I asked the clerk to send as much information as possible to you.

Incidentally, on another matter, before we go much further, I have not yet had an opportunity to speak with Mr. Sorenson. I thought I'd be able to speak to him on Thursday evening at the lengthy votes that we were going to have, which all of a sudden developed into "on division" votes. So I didn't get a chance to talk to him.

I was hoping I would speak to him after today's meeting and be able to report to you, but that doesn't prevent any member from talking to any other member of the foreign affairs committee to find out what's going on. This is in connection with what, if anything, they're doing with respect to the refusal of the department to provide an unredacted version.

In any event, as a result of the meeting of the committee, the clerk sent an e-mail requesting the attendance of—and we now know the names of the people who were to appear today—Gwyn Kutz, who is the director of GHH, as well as any other officials in GHH who dealt with Jocelyne Sabourin.

In addition, for Thursday we've requested the deputy minister, and if the deputy minister is unable to appear, then we would like to hear Gary Switzer and Jennifer Nixon on June 14.

The clerk then sent a follow up, saying, "Good morning. Will anyone be accompanying Gwyn Kutz? If so, please advise ASAP so we can amend the notice."

The answer was as follows: "No official from our department will be appearing."—full stop, no explanation—"For more information, please do not hesitate to contact me. Sylvie." The clerk attempted to contact Sylvie, and left, I believe, two messages at least, and Sylvie did not return the calls—at least not during the time the clerk was available, since he also chairs the industry committee. When he got back from the industry committee around 7 o'clock last night, in his office was a letter from the deputy minister. I believe you all have a copy of that.

The deputy minister, as you can see, advises that it's his considered opinion as the Deputy Minister of DFAIT that if the committee wishes to hear from other officials of DFAIT, it's going to be him. I'm paraphrasing, but I will quote this:

The officials whom you have asked to appear before you do not have delegated authority under the Act and are therefore not well placed to provide the Committee with insights into the administration of the Access to Information Act by DFAIT.

Then he talks about nobody being able to talk about the redactions with the committee. He also agreed that he would be prepared to attend, but of course, the way these things work, he happens to be out of town this week—effective yesterday—but he will be available next week.

Basically, the way you'd read this letter, committee members, is that as far as he's concerned, no one else is coming but him.

Allow me to kick off the debate. I view this as a gross slap in the face to this committee. It is not for the deputy minister to conclude who this committee should hear from; it's for this committee to decide which witnesses it's going to hear. And if the deputy minister doesn't agree, well, that's too bad. He can run his department; he doesn't run this committee.

We have no problem with the deputy minister coming. In fact, I'm more than anxious to have him come as a result of this letter, because I think he needs a little bit of an education on the role of committees.

He is also presuming to know why the committee is wanting to ask these people to come, and I totally disagree with him that the front-line officers who initially fielded this request would not know anything, at least about procedure. I'm not going to the redacted portion or anything like that; we've already talked about that.

• (0935)

It seems to me that the people who were given these files at first, if you'll remember.... I believe it was Professor Attaran specifically who quoted Mr. Switzer saying he would have to consult with somebody. I'd like to know who he would have to consult with, etc.

First of all, there is the insulting response by Sylvie, whoever Sylvie is, without any explanation as to why no official would be appearing and without any attempt to ameliorate the situation. For example: "No official from our department will be appearing. The Deputy Minister is going to be writing to the chair today", or something like that, but nothing. Simply, "Nobody is appearing. Call me if you've got a problem." We call because we have a problem and no one answers the phone. To me, this is absolutely unacceptable. I think if we have any backbone at all as parliamentarians, we have to stand up for our rights as committee members. This has nothing to do with the government. This is an official running a department who believes that he knows how our committee should run. That's simply my view.

If the committee is of the view that we should do something, then I think we have to do what we discussed before, which is to summons the witnesses so that there is no wiggle room. They either have to attend, or they have to take the consequences of ignoring an order of a parliamentary committee. I think that includes the deputy minister, although for all intents and purposes we can't provide him with a summons when he's out of town.

I'm not going to ascribe any motives. I'll simply say each committee member can read the letter as it's written. We all know that we're getting to the end of this session. We all know that sooner or later we're going to adjourn. That doesn't mean, as we said at the last meeting, that we can't have another meeting during the summer and it doesn't mean that we can't have these people attend during the summer.

It's truly up to the committee to decide what it wants it to do. I don't think we need a huge amount of debate on this, but if that's what it takes, that's what it will take.

As a reminder, the people we were thinking about are Ms. Gwyn Kutz, who is the head of GHH; Francine Archambault, who took the first request from Mr. Esau; Gary Switzer and Jennifer Nixon, who dealt with Professor Attaran's requests; and of course the deputy minister. Indeed, the deputy minister has agreed to attend, so that's fine, but the question is when.

I'm open for discussion and guidance from the committee.

Mr. Dewar.

Mr. Paul Dewar (Ottawa Centre, NDP): Thank you, Chair.

I concur that a message needs to be sent from the committee. It isn't about the details or the issue itself, it's about structure and function in governance and committees' roles and the people who serve the public.

Having said that, if you look at the debate we had last meeting, when we were discussing having the Minister of Justice here, we had a compromised motion in the end, which I think Mr. Stanton was behind and helping out with, and we all were kind of growing together, if you will. I think we should do the same on this issue.

It's really important. I had questions about the security preparation of documents. If we don't have the public servants here to be able to answer that question, then the issue we're looking at, be it this specific case or the wider issue of access to information, is lost. I'm understanding that the originator of the document is the person who is responsible for classification. I wanted to be able to ask that question, to find out from the deputy minister or someone who is involved with that what exactly happened here. Who was the originator of the document?

I know that's what we're trying to get at with Gwyn Kutz coming. If we're looking at a document that was classified in a certain manner or was changed and we don't know and we're not able to shine some light on that, it's very difficult, as I mentioned at our last meeting, to be able to propose amendments to an ATI or to improve ATI, and it's certainly impossible to shine light on this case.

Finally, I want to say that as a committee we've talked about the government needing to bring forward its ATI plan. I'm not casting

aspersions here, but when we're asking to find out more and we have empty chairs, that's really frustrating. It's perhaps a metaphor for what's happening on ATI with the government.

Hopefully, we'll be able to get the will of the committee to do whatever it takes to have people here to move forward, because we're moving sideways and backwards. If we can move a strongly worded motion to get people in front of this committee so we can shine some light on this case, I'd be in favour of that.

● (0940)

The Chair: Thank you.

I want to repeat that in my view this is not an issue about the executive or the government. This is an issue of how the bureaucracy responds to committee requests.

Mr. Tilson.

Mr. David Tilson (Dufferin—Caledon, CPC): Mr. Chairman, I agree with your position. My only question is that we'd like to hear from the deputy, and yes, we'll decide who we want to see.

You can see from some of the questions I've asked that my concern is the question of delay. So if two witnesses aren't familiar with redaction or blacking out—I like that better—then I'd like to see those people too. The question I have is, would we ask the deputy to come separately or with these officials?

My question to the clerk is, do we know where the deputy is? He says he's travelling. Is he in Ottawa, or do you know?

The Clerk of the Committee (Mr. Richard Rumas): My understanding is that he's out of the country.

Mr. David Tilson: I wanted to concur with your position. A subpoena is a pretty tough position to take, and I'm wondering whether it might be more appropriate to let the deputy know that the committee wishes to see the people we requested, and that's that. In other words, perhaps we should give him one more chance. If he's out of the country, you're going to have trouble finding him to do a subpoena. You may know where he is, but what are you going to do, send someone over to Europe?

I support your position. The question is, what does one do next? I suppose the choice is a subpoena to all witnesses. Secondly, a letter from you or the clerk could be sent indicating that the committee wishes to thank you for your letter, but notwithstanding it, the committee wishes to see the following witnesses.

But I quite concur with what you're saying. We don't take orders from the deputy; the deputy takes orders from us.

The Chair: Thank you.

Since the deputy has already agreed to appear, I won't recommend that we issue a summons for him. The issue is the people who we want to appear but he refuses to produce.

Mr. Dhaliwal.

Mr. Sukh Dhaliwal (Newton—North Delta, Lib.): Mr. Chair, I agree with you. Our problem is the people we want to appear, even though the deputy minister is saying that they don't have the delegated authority. We already noticed that two witnesses from DFAIT appeared. I don't see that they're open, transparent, and honest about what has happened over the last year. We should have an open, transparent department, and let those witnesses come here. We should put all the pressure we can as a committee, because they think that elected representatives have no authority to make those people come in. That is a slap on the voters who sent us here.

• (0945)

The Chair: Thank you.

Mr. Pearson, followed by Mr. Wallace.

Mr. Glen Pearson (London North Centre, Lib.): Thank you, Mr. Chair.

I think I was on the record last week saying that after these two witnesses were to come before us today, it would be time to get back to identity theft and other things. As a result of this correspondence, I no longer feel that way.

As I said before to this committee, and I mean it—I work a lot overseas, as people know—there are human lives at the end of this chain affected by the decisions that are made, not made, revealed, or concealed. I worry about this, not just for detainees and others, but also for our troops over there. They would also probably like clarification about who they're turning these people over to.

We were encouraged to ask these two people to come, and we've been told, "No, they're not the right ones. I will come. The buck stops here with me, but I'm out of town and won't be here."

I'm not comfortable with that, and it's got me to change my position on where we should go with this. Like you, I want to speak to the people who were directly involved with this decision. As a committee, we have a right to hear that. What we're hearing from the bureaucracy is "No, we'll decide what's going to happen."

I believe that people's lives depend on our abilities to do this properly, to get this information properly. They have no right to get in our way of doing that. So I very much concur with you that I would like to see these other two witnesses.

Thank you.

The Chair: Thank you.

Mr. Wallace.

Mr. Mike Wallace (Burlington, CPC): Mr. Chairman, I don't know if you're looking for a motion, but I think you hit it on the nose. The ADM has agreed to come. Let's invite him to the next available meeting, which will likely be—if we're here—next Tuesday. We could be here either way, as a group.

The issue for me is that I think we should.... If you want to give the ADM a lesson on the role of the committee, and so on and so forth, I have absolutely no issue with that. I think we should deal with that first and hear from the ADM, and then deal with the other witnesses—if it's the committee's wish to speak to them.

I would like to see the ADM first, and then we could deal with the other folks. He can stick around for that. I'd like to see all of it done in one day. If we have to come back next Tuesday to do it, and we have a little bit of an extended meeting to make that happen—I love extended meetings—I'm willing to do that.

I don't know if you need a motion, Mr. Chair, or if the direction you're taking is just based on the general discussion.

The Chair: Thank you.

It's the deputy minister, not the assistant deputy minister. It's the person who reports directly to the minister.

If I understand the procedure, we would pass a motion agreeing to summons—we don't use the word "subpoena", I believe—certain officials by name, and we would ask them to appear at a particular meeting and to remain until they're required, so that if we don't get to them at a particular meeting, they can come to the next meeting. I agree it would make sense, given that the deputy minister has agreed to come, for us to schedule him for the meeting of Tuesday the 19th—assuming we're here.

We would make it clear to the deputy minister that if, for some reason, Parliament is adjourned, there may very well be a meeting in the summertime, depending on the wishes of the committee. In that event, we would hear from him at that time.

I don't think it would be prudent for us not to issue the summons to the other witnesses. I think we could agree to hear the deputy minister first, but I think it would be wise to let the deputy minister know that his letter did not in any way, shape, or form affect our judgment, and that we do want to hear from these particular witnesses. They can sit in the back, and when we're finished with the deputy minister.... Or in fact they can offer him the advice, because you can bet your life the deputy minister doesn't have time to go through 10,000 ATIP requests at DFAIT on an individual basis. Anything he's going to tell us will be what he's been told by the officials below him. They can just as easily tell us directly; there's no need for him to run block for them.

So what I would suggest is that we have a motion to summons the people I've named—there are four of them—to appear at our next meeting, and to invite the deputy minister to appear at our next meeting. Then we can agree that we'll hear from the deputy minister first.

The four names are Gwyn Kutz, the head of GHH in Foreign Affairs, the division that dealt with this request; and Francine Archambault and Jennifer Nixon, the initial people who dealt with the requests; and Gary Switzer, who took over on one of them.

You weren't here, Mr. Wallace, but we also agreed that after we've heard everybody, we may decide to call Madame Sabourin and Ms. Thomsen back—after we've heard from everybody—depending on what the evidence is.

That's how I would suggest we proceed.

We have Madame Lavallée, Mr. Van Kesteren, and Mr. Tilson again.

Madame Lavallée.

• (0950)

[Translation]

Mrs. Carole Lavallée (Saint-Bruno—Saint-Hubert, BQ): I thought you had forgotten me.

[English]

The Chair: No, no.

[Translation]

Never.

Mrs. Carole Lavallée: I have received this letter, and my first thought on reading it is that it is not clear that Mr. Edwards is the deputy minister. His title is not given, in fact. The letter seems to indicate political interference at Foreign Affairs. I wonder why he does not want to let his employees come to meet us if he has nothing to hide, if everything is transparent. Why does he not let Foreign Affairs' employees, team leaders and department heads, come to provide explanations? He thinks that we will ask them how they administer the Access to Information Act. No, we are just going to ask them to tell us what happened. There is a sequence of events here, a chronology. I do not know who wrote the letter, but I imagine that it is Ms. Sabourin. We are going to ask different people for their views.

A quick reading tells me that Gary Switzer is an analyst. But it looks like Mr. Melvin Chuck is the team leader in the Access to Information and Privacy Protection Division. Mr. Melvin Chuck must be involved. If I understand Ms. Sabourin's testimony, he provided directions and recommendations, telling her how to censor the document. I feel that Melvin Chuck is one of the people we must see. As I understand it, he is the team leader in the Access to Information and Privacy Protection Division.

I think that we have done enough pussyfooting around, Mr. Chair. On a number of occasions, we have said that it would be nice to invite them, that we would love them to come, etc. We have patiently waited for Ms. Sabourin, and, after three weeks, our patience is running out. Now the deputy minister casually puts off his appearance before the committee until it fits into his plans. This behaviour, this way of responding to the committee, shows a lot of arrogance. I think that a notice to appear is essential, especially given the fact that a reading of the report shows that this is one of the worst departments—perhaps the worst—when it comes to access to information. In previous years, I have seen that the committee invited departments that were having difficulty fulfilling their access to information obligations. The committee asked them to appear in order to ask them how they intended to improve their record. I think that the least that the people whom we have invited can do is come to explain to us how they have handled the documents and how they have responded to the access to information requests made by Mr. Attaran and Mr. Esau.

We are nearing the end of the process. There is not a lot of time left either. I feel that Mr. Edwards and Ms. Sabourin show that in their responses. They think that they will wear us down, and that time will be on their side, that is, that we will run out of time to bring them here. That is what they are counting on, just like the Conservative government. They are counting on the fact that the committee will never have enough time to hear from them.

I think that we should send notices to appear next Tuesday to everyone we want to see, including the team leader Melvin Chuck, and we should tell them that the meeting is scheduled for Tuesday whether the House is sitting or not. We will meet here on Tuesday, from 9 a.m. until we have seen them all. I think that it is the least we can do, and that it must absolutely be done before the end of this session. When we have heard from them all, when they have all appeared...If the House is not sitting, the meeting can last all day, and we will find a way to make it work. We must invite them all because we have important questions to ask. No one can laugh in the face of the Access to Information Act and get away with it. Nor can anyone give people the runaround, not consumers, not members of the public asking for documents in good faith, not this committee.

By the way, at 11 a.m. this morning, the Standing Committee on Foreign Affairs and International Trade is meeting; they will be hearing from the authors of the report we are studying directly from Afghanistan by videoconference. I think the meeting is in the Centre Block. I am planning to go. It will add to the information I have at hand.

Thank you.

• (0955)

[English]

The Chair: Okay.

Madame Lavallée, I just want make sure I understand. You want to have Melvin Chuck, who is mentioned as the team leader in the chronology on page 2 of the English version on the April 13 date, "File reviewed for Quality Control by Team Leader/Melvin Chuck". Is that the person you want?

[Translation]

Mrs. Carole Lavallée: I have just received the chronology, so you will understand that I have read it very quickly. The person I want to see is the head of the Human Rights Division, the one who gave Ms. Sabourin the advice.

[English]

The Chair: Yes, that's Gwyn Kutz.

[Translation]

Mrs. Carole Lavallée: Fine. Mr. Kutz will do.

[English]

The Chair: I don't think we need to call 15 or 20 people for one meeting. We can hear what these people have to say. If they identify other names and if we consider that we need to hear from those, we could call those. Because there's only so much we can do in the meeting, there are only so many questions we can ask.

Okay, do you or do you not want us to put the name Melvin Chuck on the list now?

[Translation]

Mrs. Carole Lavallée: No, if you are saying that the department head is Mr. Kutz and that is the person who advised Ms. Sabourin, that is the person I want to hear from.

The Chair: It is Ms. Kutz.

Mrs. Carole Lavallée: It is Ms. Kutz! I am terribly sorry.

What is her first name?

An hon. member: It is Gwyn.

[*English*]

The Chair: Mr. Van Kesteren.

Mr. Dave Van Kesteren (Chatham-Kent—Essex, CPC): Thank you, Mr. Chair.

I come from a big family; there were ten of us. As happens with most cases when we sit around the table at night, we'd go to conversation and as kids we'd talk about this kid, that kid, start running this one down. I had a very interesting mother. My mother would always look at the good side of people and say "Now, you know, look at this, let's consider this".

An hon. member: We didn't talk about him at all. There's no need to filibuster this morning.

Mr. Dave Van Kesteren: I'm not filibustering; I'm frustrated, I'm really frustrated.

The reason I say this is because I really think, when I read this letter, that what we have here is a situation where you have an overprotective parent, possibly, and frustrated witnesses coming back saying "We got grilled, they asked us this, and you know I can't say that", so he's just absolutely frustrated and he answered probably incorrectly. I think what the guy is telling us is that he can clear up a lot of this stuff.

I think that as a result of this letter we're going off in the wrong direction. I really feel that. If we decide we're going to do this and pull in all these witnesses, we can do that. But I think what this letter is saying—I just want to repeat that—is that these people we first subpoenaed, and the ones we want to subpoena, really are not in a position to say what they have to say. I think this guy can say it.

It's a classic example of being slighted and just taking off in a certain direction. I think we were on a good footing the last time. I think Mr. Dewar said last week too that we need to focus on access to information. That's an objective that can give us good results, something we can actually give to the Canadian public rather than just going after this witch hunt. I really don't think it's what we're interpreting. I really feel that this guy might have made a mistake. It's somewhat of an arrogant response, and maybe we have to just sit him down and explain that to him. But listen to his story, because I think most of what we're asking is going to come from that.

I am not in favour of dragging all these witnesses in and going off in this direction. I think we're just wasting our time and we're going off in the wrong direction. That's my two cents' worth. I want you just to think about that.

• (1000)

The Chair: Thank you, Mr. Van Kesteren.

Just to remind you, you used the words "witch hunt". We had already agreed that with respect to the lesser officials, if I can put it that way, we would hear from them in camera so that there would be no damage to their reputation or embarrassment to them. Then we would decide later, depending on the evidence and a whole host of things, whether we would agree that the evidence would be released. That was to protect the lesser officials, if I can put it that way.

I'm not talking about the head of GHH or Madame Sabourin or the deputy minister, but Madame Archambault, Ms. Nixon, etc. You asked, what could they tell us? If the committee wanted to ask Madame Archambault to walk us through what she did as an ATIP officer from the moment she received the request, if we ask that question of Mr. Edwards, he cannot answer that except by going to Madame Archambault. So why can't Madame Archambault take us through it? We're not asking her about redactions, let's say, we're not asking her about what Madame Sabourin did; we would ask her what she did. What's her understanding as an ATIP officer of what she's supposed to do when she gets a request?

Mr. Dave Van Kesteren: Just to respond, I agree with that. When I said we're on a witch hunt, I didn't mean we want to persecute somebody, tie them to the stake, and burn them. I just think we're reacting to a negative reaction, and we're reacting angrily.

I think, if we get this guy, grill him. Like, you can do to him whatever you want to do. I think we're going to get most of the answers. He may even say okay, all right, they can answer those questions.

I think what has happened behind the scenes is that these people are going to him, throwing their hands up, and asking him how they're supposed to answer this stuff. And he, as a parent, is saying that he'll go, that he'll take the heat.

The Chair: I have Mr. Tilson, Mr. Vincent, and Mr. Dewar. However, since Mr. Tilson and Mr. Dewar have spoken before, I'll go to Monsieur Vincent first, and then Mr. Tilson.

[*Translation*]

Mr. Robert Vincent (Shefford, BQ): Thank you, Mr. Chair.

Mr. Van Kesteren's remarks are a little surprising, I find. In law, we call this obstruction. If we do a quick count of the people around the table, Mr. Wappel, you would agree that 33 people are expecting witnesses today. One person has decided to defy a committee's authority and nothing is going to be said, not a word? We must take some concrete steps because it is just not right that a deputy minister can disregard the will of a committee.

He is inconveniencing 33 people who have come here and are now present. We have MPs, political aides, interpreters and others around the table. What gives him the right to decide that he was not going to send anyone this morning, and that if we wanted to hear from anyone, it had to be him? We cannot ignore something like that; it is an affront not just to this committee but to all the other Commons committees. It is not right for a deputy minister, or anyone else for that matter, to make a decision like that about a request from a committee that wants to shed light on a matter before it, or on any report or study.

We must go even further. We are saying that they must come. etc. No, we must pass a motion of censure—or some other specific measure—against this deputy minister. If we do nothing, it means that any other deputy minister or anyone else could decide not to send such and such a person, because it is no big deal, because there will be no consequences, because the committee can do nothing, and neither can the House of Commons. We must check what recourse we have at our disposal and set an example. I cannot believe that a deputy minister is going to decide...

Today, maybe it is in the Conservatives' interests that no one is coming to testify, but as soon as they are on the other side of the table, more sparks will likely fly. It is just not right that a person like that should decide...We must condemn this situation. It cannot remain an internal matter. We must say that our committee's work has been obstructed. Something must be done, because this is leaving the door wide open to anyone else who might be tempted to do the same thing and to waste the time of 33 people who came to hear witnesses this morning.

• (1005)

[English]

The Chair: Merci.

Mr. Tilson.

Mr. David Tilson: Mr. Chairman, this whole inquiry or process started off as whether or not there was political interference. It is quite clear there hasn't been.

The types of questions I'm interested in are on the issues of why there was delay and how we can improve that. There has already been some evidence that has dealt with that.

I'm still not clear on the process of blacking things out. They say there are guidelines, but I'm still not clear. I'd like some more clarification on how much discretion is given to officials to do that sort of thing. Someone said the guidelines are thick. I don't know if I want to go through all those or not, but I'm interested in that process. Do we just let some bureaucrat decide that it's going to be blacked out, or what is the process? Should they have discretion? Should they not have discretion? These are all useful questions.

There was an admission by someone—I can't remember which witness it was from the government—who said the guidelines haven't been updated for a while and we need to have a process for updating them. I don't know if that was for guidelines or recommendations. How do we approve that process? How do we review the guidelines?

All of these witnesses can add to that in some little way, even the officials who the deputy doesn't want to come here. I believe they can make a contribution and make suggestions to the committee.

The only area I talked about was whether it goes on and on or whether you divide them into blocks. I don't know how many times we've seen senior officials say "I'll answer the question". You direct it toward one witness and they say....

Whatever we do, I'd like to see the deputy separately from the others. I'm not saying he'd do that, but I don't want him saying "I'll answer those questions" and then someone gets into a brouhaha and says "No, I want that witness to answer these questions". That would be my recommendation, whether you'd put them all on one morning and you'd have the deputy and then you'd recess for a couple of seconds and then you'd have a different block....

I think you are getting some sort of consensus here, Mr. Chairman. It varies slightly from speaker to speaker, but there is a consensus, I believe, that we want to see these people. The question is how we see them.

The Chair: You are right, Mr. Tilson. There is reasonable consensus that we should hear the deputy minister. I think we should hear him first. That makes sense. He has offered to appear.

The issue then is, just for an example, if we agree that we're going to hear the deputy minister on Tuesday and on Monday night he tells us he can't make it until Thursday. This is what I'm getting at.

Mr. Dewar, then Mr. Peterson.

• (1010)

Mr. Paul Dewar: Thank you, Chair.

I would just like to clarify a couple of things. Mr. Van Kesteren mentioned that I had in a previous meeting talked about needing to improve access to information. We should be focused on that. I also mentioned, though, that this case is really important to help us with advising the government on how they can do that. But I also have to underline the promise—and I remember Mr. Tilson was the chair of the committee when we had the Bill C-2 deliberations, for the Accountability Act—from the government that they'd bring forward ATI reforms. That's just to clarify the record.

Now, on the issue of witnesses, I'm hoping that the list of witnesses we have—and I'm not clear on this—will satisfy the request that I think we all have, which is to have the person who's the originator of the document in front of us. I'm not sure if that's the case. I'm hoping that's what Ms. Gwen Kutz is going to be able to do. If it's not, then I guess the deputy minister is the person to answer that.

In other words, this whole case is about who was aware of the document, to start with, because we heard different versions. We heard initially that the document didn't exist because of nomenclature—that we don't produce human rights assessments, etc. And then there was follow-up, and then eventually we got to the point of "Well, yes, we do, but it's not called that".

What we need to know is that the witnesses that we're going to have will be able to answer the question of who the originator of the document itself was. I'm concerned, when I look at the process of how security classification is assigned, according to Treasury Board, that if we don't have the right person here, we won't be able to find out who originally developed this document and therefore find out or follow the track, if you will, of how this document was classified, and then ask questions about redaction or blacking out that follow from that.

We have a list of witnesses here we can all agree to, and I think Tuesday makes sense, if everyone's agreed. I'm agreed to that. Notwithstanding that, are we also assured—and I guess I'm looking to perhaps the clerks on this—that the person who is the originator of the document itself will be known or that the deputy minister, I guess, or Ms. Kutz, will be able to satisfy us with that? In other words, will they be able to say "Yes, here's the person who originally did the document"? If we don't have that, then we'll have a nice discussion, but we won't be able to source the originator of the document and then find out how it was classified.

Chair, one of the issues here is not only the redaction issue and what's been blacked out. It's how these documents are classified at source. That's critical. And if they were improperly classified, we need to know that.

Thank you.

The Chair: Just to remind you of the evidence, I specifically asked for the names of the three people who are at the end of the document that we're discussing. In a subsequent letter, we were advised of who they were, and they're all based in Afghanistan.

I guess that's why the foreign affairs committee, Madame Lavallée is telling us, is having a meeting today on video conference, presumably talking with these people. I believe one of them was Bloodworth. I guess we would find this out when we asked Madame Kutz, but it's my understanding that, as head of the division, she would have signed off on it. She would have given the advice to Madame Sabourin.

If it turns out that our questioning leads us in a direction that we didn't know or names are mentioned that we didn't know, well, we simply will have to deal with that at that time.

Mr. Mike Wallace: A point of order, Mr. Chair. As an important clarification for the rest of the group, the video conference that Madame Lavallée had been referring to I do not believe is happening today. The committee meeting is actually going on right now in camera.

The Chair: Okay. We'll find out, because I will talk to the chair.

Mr. Pearson, you are our final person.

Mr. Glen Pearson: Thank you, Mr. Chair.

I just wanted to agree with Mr. Tilson. We've looked at this pretty hard, and I don't think we have found evidence. The witnesses coming to us have not given us evidence of political interference. I'm not saying it didn't happen, but we've done what we could.

On the other hand, Mr. Van Kesteren, I'm kind of like your mother. I don't have her hair, but I tend to look for the best in people as well. But I'm not naive, sir. I think there's something wrong with this process. I think they behaved one way last year and they've behaved differently this year with the things they're blacking out. We can't get to the answer to it, and the process is very important.

So if there is no political interference in this at all, then fine; but people are affected by how this case was handled. And I'm not content now, having seen some of these things, that we're actually getting the answers to know if it was handled properly. If it was not, we have a responsibility, as a committee, to tighten that up and make sure it's done properly, because it is about information, and that falls within our bailiwick.

I want to see the best of what is happening, but I just think that we need to know why this happened in the way it did, and I'm not sure that from the deputy minister we're going to get that. I would like to speak to the people directly who were involved with making that. They might not come, but that's why I'm wanting to do that. I believe the process needs to be tightened up.

Thank you, Mr. Chair.

●(1015)

The Chair: Thank you.

Allow me to summarize. There are really two issues. First, it's who's going to come, and the next issue is when.

One of the problems is that we simply do not know if Parliament is going to adjourn this week. If it doesn't, we have a regularly scheduled meeting on Thursday. We know the deputy minister can't attend, since he's out of town. I think we have a consensus that we should hear from him first. Given that, there's not much point in having a meeting on Thursday.

If Parliament adjourns, then we don't have a meeting on Tuesday. But Madame Lavallée suggested that we have a meeting anyway. If necessary, we would simply use the day to go through all of the witnesses.

I think we should deal with the first issue, which is to agree that we're going to call these people and that we're going to summons them. Then we can decide, as a committee, if we're going to meet on Tuesday of next week, whether or not the House is in session.

I think we all agreed that we will accept the deputy minister's offer to attend. We will ask him to attend at our next scheduled meeting; I'll explain why I say that in a moment. I also think we should summons the other people for the same meeting. The reason I'm suggesting that is because if they are summonsed to appear and they're here, that will be a huge impetus for the deputy minister to appear so he can protect his children before they give evidence.

I'm not suggesting that we summons the deputy minister. He has already agreed to appear and there's no point to insulting a person. I am suggesting that if something should happen that he considers more important than appearing before this committee, then we're stalled again for another day and we lose more time.

The motion that I'm suggesting is that Gwyn Kutz, Francine Archambault, Gary Switzer, and Jennifer Nixon be summonsed and required to appear at Ottawa, bring all relevant papers and documents, and give evidence before the Standing Committee on Access to Information, Privacy and Ethics of the House of Commons of Canada on matters relating to its study of access to information requests for the Department of Foreign Affairs and International Trade's internal report entitled "Afghanistan 2006: Good Governance, Democratic Development and Human Rights", pursuant to Standing Order 108(2), at its next sitting, at a time and place to be determined, and to remain in attendance until duly discharged.

That would be the formal motion. That covers off the people and the fact that we're not sure when the meeting might be. If we decide later that it's Tuesday, we don't have to amend the motion; we simply advise them that's our next meeting. We will invite the deputy minister to attend our next meeting, whenever our next meeting will be. That's why his name is not mentioned here.

If this passes, the witnesses would be advised that they have been summonsed.

Members may not know that the ramification of ignoring a summons is that we could move that they're in contempt of this committee. If we find they are in contempt of this committee, we then report to the House of Commons and ask the House to find them in contempt of Parliament. If they're found to be in contempt of Parliament, then there are a variety of actions the Speaker could take to enforce the integrity of members of Parliament and committees.

That's a long way down the road, so I'm not going to bore you with the history of that. We can all check Marleau and Montpetit. There are consequences to ignoring a summons of a committee, unlike not showing up when a committee asks you to come.

Okay. Based on what I just said, I see two people's hands up.

Mr. Wallace.

• (1020)

Mr. Mike Wallace: Yes, thank you.

Maybe I'm wrong about this, but have we officially invited the deputy minister yet?

The Chair: Yes.

Mr. Mike Wallace: Oh, he has been invited.

The motion just deals with those who are being summoned. Could there be an additional motion, not in a summons format, that we invite the DM to the next available meeting so it's clear that we want him here?

The Chair: Yes, we can do that.

Mr. Mike Wallace: I understand your issue about using the words "next available meeting", but does that give them flexibility to say they can't make it on Tuesday?

The Chair: I don't believe so, because they're commanded to appear, in effect, before our committee at its next meeting.

Mr. Mike Wallace: Thank you very much.

The Chair: Thank you.

Madame Lavallée.

[*Translation*]

Mrs. Carole Lavallée: As I understand it, your motion does not include a date. First we are going to vote on the principle and then we will talk about dates and about what we will do if the House is sitting and if it is not. Is that correct?

In that case, I am voting for your motion, Mr. Chair.

[*English*]

The Chair: Okay.

Of course I can't move anything, but let's deal with Mr. Wallace's motion. Can we agree that we will invite the deputy minister to appear at our next meeting? And we're talking about the Deputy Minister of DFAIT.

Mr. Mike Wallace: I'll move that.

The Chair: Thank you, Mr. Wallace.

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

The Chair: So that takes care of that.

Mr. Pearson will move, and I'm going to repeat it for the record:

That Gwyn Kutz, Francine Archambault, Gary Switzer, and Jennifer Nixon be summoned and required to appear at Ottawa, bring all relevant papers and documents, and give evidence before the Standing Committee on Access to Information, Privacy and Ethics of the House of Commons of Canada on matters relating to its study of Access to Information Requests for the Department of Foreign Affairs and International Trade internal report entitled "Afghanistan 2006: Good Governance, Democratic Development and Human Rights", pursuant to Standing Order 108(2), at its next sitting, at a time and place to be determined, and to remain in attendance until duly discharged.

(Motion agreed to)

The Chair: The next subject matter is then our next meeting. I think we're agreed, given Mr. Edwards' timeframe, that we can't have a meeting Thursday, unless someone suggests some other topic. In that case, the question is will we have a meeting Tuesday? The answer is, if the House is still sitting, yes, obviously. Do we want to make a decision now that we will sit on Tuesday of next week, whether or not the House is sitting?

Madame Lavallée.

[*Translation*]

Mrs. Carole Lavallée: Mr. Chair, I was going to suggest that this notice to appear be for next Thursday's meeting. I am sure the people that we want to call have known for some time that we want to see them because they have read the "blues".

[*English*]

The Chair: Excuse me. Next Thursday, did you say?

[*Translation*]

Mrs. Carole Lavallée: Why would it not be Thursday afternoon? Give me a good reason why it can not be Thursday.

[*English*]

The Chair: I'll give you one good reason. Because we've agreed that we would hear the deputy minister first, and he's not available until next week.

[*Translation*]

Mrs. Carole Lavallée: I am sorry, perhaps I misunderstood, but I do not believe that the motion specifies that we are receiving the deputy minister first.

[*English*]

The Chair: It's not in the motion. I heard a consensus of the committee that since the deputy minister has volunteered to attend, that as a courtesy to the deputy minister we would hear from him first, while having the witnesses here so that if for some reason he isn't here the witnesses would be here. That was the general idea.

If the committee wants to change that, that's fine. I really don't see that there's much difference between proceeding on Thursday and Tuesday, with the exception that the deputy minister cannot appear on Thursday because he's not here.

• (1025)

[*Translation*]

Mrs. Carole Lavallée: Mr. Chair, with all due respect, there is a big difference between Thursday and next Tuesday. First, it is almost certain that we will still be here on Thursday, but there is some doubt as to whether we will be here next Tuesday.

Second, if the deputy minister of an important department in an important government—I do not know where he is exactly—really wants to come and appear ahead of the people who work for him, he can quickly get on a plane and be back in Ottawa by Thursday morning. At the moment, we are wasting the time of the 33 people here in order to accommodate the agenda of one person—the deputy minister—who has elegantly given us the runaround in a letter. I say that he has given us the runaround and your words, Mr. Chair, were that it was a slap in our faces.

In my view, the deputy minister has to accommodate the agenda of the House. It is extremely likely that the House will wrap up its work this week; you said so and we all know it. If he wants to appear ahead of the people who work for him, he should get over here on the double. The choice is his. He either gets here on the double, or he appears after his people.

[English]

The Chair: But, Madame Lavallée, whether or not the House adjourns is irrelevant, if this committee agrees that it will meet next Tuesday. If this committee agrees that it will meet next Tuesday, it doesn't matter if the House adjourns, because we still have authority to meet while the House is in adjournment.

The deputy minister will be here, because that's what he told us in his letter, and if he isn't, we'll have four witnesses here who will be able to answer our questions in his absence. With the greatest respect, I think it's somewhat unfair to expect that the deputy minister should interrupt what undoubtedly is, we hope, very important government business—because the deputy minister is on that business—with less than 48 hours' notice.

I think I'm getting the feeling that the members of the committee would be prepared to be here Tuesday whether or not the House is in session. If that is so, I would urge Madame Lavallée to agree that we postpone further consideration of this matter until next Tuesday.

I'll give you the chance to think about that, Madame Lavallée.

We'll go to Mr. Dhaliwal.

Mr. Sukh Dhaliwal: The only suggestion I had, Mr. Chair, was that if the House doesn't sit and if those fellows don't want to appear here in Ottawa, we can welcome them to British Columbia.

The Chair: Mr. Van Kesteren.

Mr. Dave Van Kesteren: I think we should just go ahead with a motion for Tuesday, and if the House is adjourned, we'll just have to come back. It's as simple as that.

[Translation]

The Chair: Your turn, Mr. Vincent.

Mr. Robert Vincent: Mr. Chair, I find your talk of courtesy a little strange. I am not very religious, and if someone slaps me on the cheek, I am not turning the other one.

You say that we should let the deputy minister appear first out of courtesy. Given the letter that he sent to us, why would we be showing this man any courtesy? He can appear last as far as I am concerned.

It is Tuesday today. We have already wasted our day, and we are also going to waste Thursday “out of courtesy”! I do not agree, I do

not want to waste a day “out of courtesy”, especially courtesy to a man who sent us his letter late yesterday afternoon so we would only find out about it this morning. I do not think that we should be so courteous to these people and I do not do not believe that the committee should be wasting another day. We have a list of witnesses and we can have them come on Thursday. If we come back next Tuesday, we can hear from the deputy minister. There is no way that we are going to waste two days because of Mr. Edwards' inaction and be courteous as well.

I can take a slap on the cheek, but I am not turning the other one, you can be sure. If you keep me waiting until next Tuesday, and you make me waste another day, I swear that, when the deputy minister arrives, he will get what is coming to him.

• (1030)

[English]

The Chair: There are, of course, two arguments, and it will be up to the committee to determine which of the two arguments prevails. Either way, I suspect that the appearance will be less than comforting to the deputy minister, whether it's on Thursday or on Tuesday, because I have no doubt, Monsieur Vincent, that you are going to express your views in your usual strong manner.

Mr. Wallace.

Mr. Mike Wallace: Mr. Chairman, the schedule, to be fair to everyone, actually shows this Parliament sitting until June 22. There is speculation around the table that we're adjourning earlier than the 22nd, but as far as I know, I have committee meetings in my schedule for next week and I have other things in Ottawa for next week. I think we will be having a meeting here, one way or the other, next week.

I think it's naive to think that we ask him—we're not even summoning him—to appear on Thursday. He's going to say he's sorry, but he already told us he's out of town, out of the country, and is not coming back. It's still going to be next Tuesday, whether you want it or not, and I think, rightfully or wrongfully, we agreed on a consensus basis, not by a vote, that it would be appropriate to see the deputy minister first and then the staff members after that.

I'm comfortable coming on Tuesday; I just wanted to let you know that, and whether we're in session or not, I will be here.

The Chair: Can we have a motion from someone that the next meeting of this committee will be at 9 a.m. on Tuesday, June 19, whether or not the House of Commons is in session?

Mr. Dewar will move that.

(Motion agreed to)

The Chair: We do not have a meeting on Thursday. We will meet on Tuesday, whether or not the House is adjourned. Mr. Edwards, we expect, will be here. If he's not, we'll proceed with the witnesses we've summoned.

Is there any other business, ladies and gentlemen?

Thank you very much. We'll see you next Tuesday.

The meeting is adjourned.

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