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Thursday, June 7, 2007

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Chair

Mr. Tom Wappel

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• (1020)

[English]

The Chair (Mr. Tom Wappel (Scarborough Southwest, Lib.)):
Order.

We will be discussing the fifth report of the subcommittee on agenda and procedure, and since I chair that particular subcommittee, I will report on behalf of the subcommittee.

Your subcommittee met on Monday, May 14, 2007, to consider future business of the committee. It was the consensus of members present, but not unanimous—we've heard that phrase before—that the most senior officials from the Department of Justice be invited to appear before the committee with respect to the Access to Information Act and related matters. That is the recommendation from the consensus of the subcommittee.

What is the rationale for it? Allow me to explain.

The very first report of this committee—I think it was the first report—asked for the Minister of Justice to bring forward an act by no later than the end of December for us to consider. We never did receive a response from the minister in any way, shape, or form.

The minister then was moved laterally to the Treasury Board, and a new minister came on board. We've asked repeatedly to have that new minister attend before us, only to be told that he's too busy to attend before our committee, at least until the fall.

Your subcommittee in consensus felt that this was an inappropriate attitude of the minister—in fact, of ministers, plural—and we struggled with how we could impress upon the minister how serious we believe it is that he appear before the committee on the issue of access to information.

It's very appropriate that Mr. Dewar reminded this committee of the conversations and debates that took place with respect to Bill C-2, and in particular of the apparent disappointment of some that access to information was not dealt with in full in Bill C-2, but rather that there was a promise that it would be dealt with separately. Of course, this committee, I think it's fair to say, sees absolutely no evidence of that occurring at the present time.

We were reminded by Mr. Walsh—maybe it wasn't Mr. Walsh, but it is a known fact—that we have no authority to require or compel a minister of the crown to appear before us. We can only invite a minister of the crown to appear before us. If the minister of the crown chooses not to appear, then we have to end up being relatively creative in trying to convince or cajole that minister to appear before us.

One of the methods that was suggested, and frankly it was suggested by me, was to require the attendance of, shall we say for illustration purposes, though there's no particular number in this subcommittee report, the top ten officials at the Department of Justice, from the deputy minister on down, following the chain as it relates to access to information—there's no point in having somebody who's involved in something entirely different at the Department of Justice, but it would be with the deputy minister included—and have those people summoned to appear, so that they must be here, and have them sit here, even if we're too busy to hear them, until we get around to hearing them. That might be in two, three, four, five, six meetings, because we're very busy with this subject, with identity theft.

This would certainly give the message to the upper echelon of the justice department that the committee is very unhappy at having been snubbed by the minister.

One would hope it wouldn't get to that.

If the committee were of a view to adopt the fifth report, obviously that fifth report would very quickly be brought to the attention of the department. They would have the entire summer to think about it and to consult with their minister. In the meantime, if this report were adopted, I would ask the clerk to again ask the minister to make himself available, and we would indicate that we would be prepared to meet with him at any reasonable time, including scheduling a special meeting if necessary, perhaps on a Wednesday evening over supper, or whatever the case may be. We would be as accommodating as possible to the minister's schedule, but at the same time he would recognize that if nothing transpires, then we expect the top officials, including the deputy minister and on down, to be in attendance at our committee at every meeting we have until we're ready to meet with them.

That should send, we hope, the appropriate message of how seriously we view this issue and how important it is, we think, that we have the justice minister back to discuss what the government's plans are with respect to either a new Access to Information Act or amending the information act.

That's the rationale, basically, behind the fifth report. Again, it's what some might call a mini-nuclear option, but perhaps if the department were of the view that the committee was prepared to use the mini-nuclear option, it might reconsider the busy schedule of the minister. Let's put it that way. That's more or less the breakdown of this, and it would give lots of time for the department and the minister's scheduling people to think about things. We're not talking about doing this, I don't think, frankly, in the next two meetings. I'm talking about when we return.

Of course, if there's a prorogation, this committee is defunct. There may be new members on it, it may be an entirely different situation, and that committee will have to come to grips in its own time with how it wants to deal with this issue.

If we were to adopt this report it would at least send the appropriate message, in my view, to the department, about how serious we are about having the minister here to talk about the government's plans with respect to access to information.

So on behalf of the consensus—although not unanimous—of the subcommittee, I'm urging our committee to accept this report. I'm urging them to accept it unanimously so that we send the appropriate message. If the committee does accept this report unanimously, I'm already undertaking in advance, as chair, that I would ask the clerk to seek a reasonable time in late September, early October, for the Minister of Justice to appear before us, and thereby obviate the necessity for this kind of thing.

Those are my comments. I invite comment.

Mr. Tilson.

• (1025)

Mr. David Tilson (Dufferin—Caledon, CPC): Mr. Chairman, I will be opposing the proposal. What this motion will do, if it is carried out, is essentially paralyze the Ministry of Justice, and I think that's totally irresponsible.

The Chair: It would only do so if the minister doesn't come.

Any other comments?

Mr. Dewar.

Mr. Paul Dewar (Ottawa Centre, NDP): The fact is we have the request to the minister and he's decided that he has other things on his plate and this isn't important. It's not like we decided this was the first shot at it. This was because of the frustration of the committee. If the minister's deciding, and he has that right, as was mentioned, that he isn't able, or perhaps some would say willing, to come before our committee, then as a committee you have to look at other options.

I remind committee members of this report from the Information Commissioner. As I said before in committee, it's not a great report card. There's some remediation required. If we can't get the minister to come forward—And I must note that one of the ministries that gets a failing grade is the justice department, and we've seen the foot-dragging from them.

I guess I just have to buttress the comments made by the chair. How the heck do you deal with a ministry when the minister doesn't come forward? You have to look at other ways of doing it, because

the people demand accountability from the government, and if the minister of the crown's not willing to come forward, what other options do you have?

This is a government that ran on accountability. This is a government that brought forward the accountability act. The foundation of accountability is transparency, it's access to information. If we don't have that and we don't have the ministers willing to come forward, then I think we have to try other options.

I think the Canadian people demand that, and that's not a rhetorical flourish. That's the foundation of what we're here to do. It's to provide representation to citizens. One way of doing that is access to information. The way you do that is through a minister of the crown. If he's not willing to come, well—

I think the chair's being very reasonable in saying make accommodations for the minister. He's a very busy person, granted. We all are. What's important? He is paid by the public to represent them on issues like this, and I think it's really important that we send a strong message, and if he's not willing, then to bring officials forward to do so.

The Chair: Could we have Mr. Stanton, followed by Madame Lavallée?

Mr. Bruce Stanton (Simcoe North, CPC): Thank you, Mr. Chair.

I take Mr. Dewar's comments to heart. The only thing is the fifth report doesn't say anything about again asking the minister. This is really a secondary tactic based on the fact that there has not yet been the ability to get the minister scheduled. I'm reminded that the minister did indicate that he wouldn't be able to meet this committee until the fall. The fall is going to be reasonably quickly upon us. We were talking here today about perhaps one or maybe two meetings before the fall.

What I see is in fact, as the minister has stated, a willingness to come before this committee in the fall when we resume our committee work in mid-September, presumably. I don't disagree with the sense that the committee should probably consider elevating the pressure. But to Mr. Tilson's point, it's awfully obstructive as well, and I wouldn't want to resort to that tactic until such time as we in fact can't get the minister before us, and I see that there's a willingness by the minister to come.

If we could amend the report—I don't know if that's technically possible—

The Chair: Yes, it is.

Mr. Bruce Stanton: —by saying “That the committee follow through on the minister's assertion that he will appear before the committee in the fall of 2007, and that if it comes to pass that we cannot schedule that meeting”—or words to that effect—“that this secondary tactic be considered”, or something to that effect—

The Chair: Before we start drafting a motion, technically fall begins around September 21 and ends on December 21. So by definition, “fall” includes a long time, and I don't think anybody would suggest that we expect the minister to attend on December 19 or something like that.

So if you wanted to perhaps amend the motion in some manner with a specified date by which the minister would have to appear, something like that—

• (1030)

Mr. Bruce Stanton: October 31.

The Chair: If we're looking for consensus, that might seem a bit long, given that the ministers have both had a long time to come up with this. On the other hand, we don't know when we're going to come back. There's even discussion that we wouldn't come back until after the Ontario election. That is entirely up to people beyond us. That will take place on October 10, and I believe shortly thereafter Thanksgiving will occur, and we may have a week's break there. I don't have the schedule in front of me.

It might be a good idea for September. In theory, we're supposed to return on September 17, sit for three weeks, and then break for the week of October 8. I take it October 8 would be Thanksgiving, and October 10, which is a Wednesday, would be the Ontario election.

So if we do come back on September 17, we have three weeks there. If we don't come back until after the Ontario election, there are going to be four solid weeks of sittings. I'm looking to try to come up with some consensus rather than an argumentative vote or anything like that.

Yes, sir.

Mr. Bruce Stanton: Mr. Chair, if I might, what if we considered, for example, because of that uncertainty around when we resume, that we could say “within 30 days of the resumption of the fall session”?

The Chair: Within 30 calendar days?

Mr. Bruce Stanton: Within 30 calendar days, yes.

The Chair: Mr. Dhaliwal, on a point of clarification.

Mr. Sukh Dhaliwal (Newton—North Delta, Lib.): Is it the same topic we were talking about, that the minister was supposed to respond to us by November 15?

The Chair: It was December. Yes, it's the same topic. We're still talking about the same topic. That's correct.

Mr. Sukh Dhaliwal: So I mean—

The Chair: I'm sorry, that's the point of clarification. I will put you on the list, but you can't interrupt others other than on that point of clarification. I hope that doesn't change your opinion of my chairing of the meetings.

Mr. Stanton is making the suggestion, not that we not do this, but that we amend it by at the same time inviting the minister to appear within 30 calendar days of the resumption of Parliament. And I presume, failing that—

Mr. Bruce Stanton: And should that not occur—

The Chair: —that the most senior officials, etc.

So I guess to help with this, the motion would be that the committee invite the Minister of Justice to appear before the committee within 30 calendar days of the resumption of Parliament, failing which, that the most senior officials, etc., be invited. Is that about it?

Mr. Bruce Stanton: Almost. I would say that we can invite him, but that doesn't mean he necessarily appears. So I would say, “that the Minister of Justice appear before the standing committee within 30 days of the resumption of the fall session”.

The Chair: That's fair. Okay.

Mr. Bruce Stanton: And if that does not occur, then the final paragraph.

The Chair: Okay. Do we understand what the suggestion is?

[*Translation*]

Mrs. Carole Lavallée: No.

[*English*]

The Chair: The suggestion is—and you're next, by the way, Madame Lavallée, so you might as well understand—that the fifth report be amended by adding at the beginning of it, “That the Minister of Justice appear before this committee within 30 calendar days of the resumption of Parliament, and failing that, that the most senior officials”, and so on, the balance of the fifth report. That's in fact the motion Mr. Stanton is moving, and it seems like a reasonable one to me. We can have discussion on the fifth report, but he is moving that. So we'll also have discussion on the amendment.

Is there any discussion on the amendment, Madame Lavallée?

[*Translation*]

Mrs. Carole Lavallée: When we talk about 30 calendar days, does this mean October 17, since we resume on September 17?

[*English*]

The Chair: No, it does not mean that, because we do not know—I'm sorry, I'm understanding you and I'm jumping in before the translator. My apologies.

We do not know precisely when we will return. If we are to follow the calendar, we will be returning on September 17; however, it is entirely the prerogative of the Prime Minister to prorogue Parliament

[*Translation*]

Mrs. Carole Lavallée: I am sorry, but there is a technical problem. The sound went down all of a sudden.

• (1035)

[*English*]

The Chair: Yes, it has come down a bit, the sound on the translation. I don't know what—

[*Translation*]

Mrs. Carole Lavallée: We can hear, but as though it were very far away. Could the volume be turned up?

Le président: Is that better?

Mrs. Carole Lavallée: Yes.

Mr. Robert Vincent: Yes, but there is no interpretation.

[*English*]

The Chair: Yes, the sound is much quieter in French than it is in English, there's no doubt. I don't know why that is.

Perhaps we could have complete silence while I just make this point so that Madame Lavallée can hear the translation.

Technically, we are to return on September 17. If that were to occur, the effect of Mr. Stanton's motion would be that within 30 calendar days of September 17, the Minister of Justice would appear here, failing which we would have the senior officials.

If the Prime Minister chooses to prorogue Parliament, it is entirely up to the Prime Minister to decide when to return. We simply have no idea when that might be. There is talk that it might be after the Ontario election, in which case the probability would be that it would be Monday, October 15, in which case the effect of Mr. Stanton's motion would be that the minister would appear within 30 calendar days of October 15.

I really don't see any other way around it, because we have absolutely no control of whether there is going to be a prorogation or whether there's going to be an adjournment.

So that's the answer.

[*Translation*]

Mrs. Carole Lavallée: Forgive me, but I wish to make sure I understand. When you talk about calendar days, does this mean days of the calendar or days on which the House sits?

[*English*]

The Chair: When I say “calendar days”, it means every day of the calendar. That's exactly why I asked, because I didn't want it to be 30 sitting days because we could be into February. So Mr. Stanton is clear that it's 30 calendar days, which counts every day, including Saturday and Sunday and holidays.

[*Translation*]

Mrs. Carole Lavallée: All right.

I would like to talk about the amendment to the motion itself. I would be in favour of Mr. Stanton's motion, but I would like our frustration to be expressed in the preamble to our request. We have been asking the Minister of Justice to come and meet with us, or to present us with a draft bill, for a long time now.

In fact, in a motion passed by this committee, we asked the minister to present us with a draft bill by December 15 of last year. But he disregarded that motion. We are after all a parliamentary committee made up of elected representatives. The fact that he brushed off our request, that he did not even deign to answer it in writing or otherwise and that he did not explain why he was not presenting us with this draft bill by December 15, though we had requested this of him, has been very frustrating.

Since late January, we have asked him repeatedly to appear before our committee. To my knowledge—unless you tell me the contrary, Mr. Chair,—he has once again not even bothered to answer our request in writing. This is pretty cavalier on his part. Our frustration has to be expressed. He must be made to understand that this motion is not being pulled out of a magician's hat, but that it is part of a long process, which has been going on for about a year.

[*English*]

The Chair: Thank you, Madame Lavallée.

We would be here until September if we tried to draft a preamble that all of us could live with. As the chair, I would be prepared to include in the invitation to the minister a copy of the first report, together with a transcript of this committee meeting that would clearly indicate to the minister the views of at least some of the members on the record, in public session, regarding their frustration. It's entirely up to the minister if he wishes to read it.

I suggest that if we want to move along on this, we not try to do too much drafting, because otherwise we'll get nowhere. I would be prepared, and I don't think that needs to go in the motion—the chair has the residual authority—to include in the letter a reminder of the first report, together with a transcript of this committee hearing.

We have ample time, since we're talking about 30 days from the resumption of the session. I would be prepared to undertake to do that as part of the letter that I send, inviting the minister on behalf of the committee.

Okay. We have Mr. Dhaliwal, Mr. Peterson, and Mr. Dewar.

• (1040)

Mr. Sukh Dhaliwal: I'm fine, thank you.

The Chair: Thank you, Mr. Dhaliwal.

Mr. Peterson.

Hon. Jim Peterson (Willowdale, Lib.): I have always expected ministers to come before committees when asked to. I don't know of any examples when ministers wouldn't come, particularly when they're responsible for it.

The Chair: That's my experience. They may not like it, they may try to postpone it, but they do it.

Mr. Dewar.

Mr. Paul Dewar: I don't think the issue is the minister eventually coming. It's not like *Waiting for Godot*—maybe, I don't know. It's a matter of when they come; I think that's the issue.

So on the amendment Mr. Stanton put forward, maybe I'd rather have his original idea. If you look at the calendar, 30 days after the election in Ontario puts us past October 31. The idea is fair, and we've got the attention of the government side, so that's always a good thing.

Perhaps looking at shortening the breadth, and instead of 30, my suggestion is to bring it down 10 days at least. Initially we were saying October 31, and now we're talking about 30 days after October 15. Maybe somewhere in the middle we could look at a compromise, something along the lines of 15 or 20 days.

The Chair: Mr. Stanton, would you consider a friendly amendment to make it October 31? That would be at least 15 days from October 15, assuming we didn't come back until October 15. It would be longer than 30 days, if we come back on September 17.

Mr. Bruce Stanton: We could amend it to 21 days, or something. That's fine.

The Chair: I'm thinking we could specifically state October 31: that the minister appear on or before October 31. Is that all right?

Mr. Bruce Stanton: I don't see a problem. The only potential difficulty is that we really have no idea when that resumption might take place. It could be the 15th or it could be the 25th.

The Chair: That's correct.

Hon. Jim Peterson: I think Mr. Stanton is being very reasonable in saying 21 days.

The Chair: Twenty-one days from the return—is everybody happy with that?

Then we have a motion. It is moved by Mr. Stanton to amend the fifth report to read:

That the minister appear before the committee within 21 calendar days of the resumption of the sittings of the House of Commons, failing which, that the most senior officials from the Department of Justice be invited to appear before the committee with respect to the Access to Information Act and related matters.

That's the amendment.

Monsieur Vincent.

[*Translation*]

Mr. Robert Vincent: Are we sending the letter right away? If we send the letter next week or these days, the minister will understand that, as of the date on which the House of Commons resumes sitting—regardless of the date, since we do not know it—he will have a certain number of days before appearing before the committee. He will have the whole summer to think about the matter. Is this what is underlying the amendment?

[*English*]

The Chair: What I will do is write the letter as quickly as possible, and if possible by tomorrow. I'll sign it while I still have authority as chair, not knowing when or how things are going to happen. In that letter, we will mention that at the earliest opportunity, the clerk will forward the transcript of this committee meeting, so that even if the House prorogues and this committee is defunct, the clerk will have had the authority to take the transcript and follow up on that letter so that the minister has it.

It will also be helpful, if there is a prorogation and a new committee with new members, that whatever new clerk is there bring our comments to the attention of the new committee, together with a copy of the letter.

The long answer to the short question, Monsieur Vincent, is that we'll do it as soon as possible and will try to do it no later than tomorrow, with a reference that the clerk will send a copy of the transcript—not the blues, but the actual transcript of the committee hearing—as soon as possible to the minister. Is that clear?

Mr. Dewar. Is it on the amendment?

● (1045)

Mr. Paul Dewar: Yes. I wanted to underline the point that 21 days is the maximum time, and that at any time he's more than welcome to come to committee and that we would welcome it. It's just to make sure that the door is always open and that we would prefer to see him before that. This is just to clarify, because he said 21 days.

The Chair: I'll make that clear, Mr. Dewar. I'll also remind the minister that we don't even know yet when our committee is going to be meeting. The whips will change the times, so we don't even know our meeting slots, but we'll make our committee members available at a special time, if that would suit the minister. We will do everything we can to bend over backwards, but we don't want to be left longer than 21 days after the resumption of the sitting.

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

The Chair: All in favour of the fifth report as amended please signify.

Some hon. members: Agreed.

The Chair: The fifth report is adopted as amended, and I will undertake to do what we just said.

Is there any other business?

Some hon. members: No.

The Chair: Then we will see everybody on Tuesday, with whoever we have showing up.

Thank you.

The meeting is adjourned.

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